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THE CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE AND THE ADVOCACY OF A LEAGUE OF NATIONS, 1914-1918

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Established in December, 1910, by industrialist Andrew Carnegie to hasten "the abolition of international war, the foulest blot upon civilization," the Carnegie Endowment for International Peace has been in the forefront of efforts to educate Americans in internationalist values.¹ During much of its early history the endowment was an instrument of conservative legalists who advanced a specific doctrine regarding the way in which the United States should be involved in world affairs. As a consequence, it became a catalyst for political activities as well as an educational center. This dual role was manifested during the First World War when the Endowment's leaders provided much of the early initiative in internationalist opposition to a coercive league of nations. In these activities they were tacitly allied with Woodrow Wilson's second secretary of state, Robert Lansing, who opposed an international military sanction and disagreed with his chief concerning the desirable features of a postwar organization. The wartime activities of the Endowment and its leaders constitute an important preliminary to the political controversies of 1919-1920 regarding American ratification of the Covenant of the League of Nations.

At the center of the movement in the United States for a postwar association was the League to Enforce Peace, established in June, 1915, under the direction of former president William Howard Taft and A. Lawrence Lowell, president of Harvard Uni-

versity.² This league urged the United States to join other states in referring legal disputes to an international judicial tribunal and political disputes to an international council, and in holding periodic diplomatic assemblies to draft new rules of international law. It also suggested joint economic and military action by league members to enforce a moratorium on war pending the reference of disputes to the court or council and the passage of time ample to permit cases to be heard.

The League conducted a vigorous propaganda, and in May, 1916, provided the auspices for President Wilson's first public endorsement of American membership in a peacekeeping association. Nationalists and isolationists attacked the League and Wilson for betraying American traditions, but the League also was criticized by two divergent groups of internationalists. Liberal internationalists, who looked to Wilson for leadership, regretted that the League did not address underlying social, economic, and political causes of war, and that it had little to suggest apart from enforcing an international due process. In 1918 they formed the League of Free Nations Association to espouse a reorganization of the international system. On the other hand, while conservative legalists favored a court and council and extending international law, they rejected a coercive sanction as undesirable in principle and unworkable in fact. They also shied away from creating an international instrument for social or economic change. Coordinating and giving direction to these legalists were officers of the Carnegie Endowment for International Peace.

If in 1914 there was an imposing figure in the Endowment it was Elihu Root, its president.³ Secre-

¹ The early history of the Endowment is described in Michael A. Lutzker, "The Formation of the Carnegie Endowment for International Peace: A Study of the Establishment-Centered Peace Movement 1910-1914," Jerry Israel, ed., *Building the Organization Society: Essays on Associational Activities in Modern America* (N. Y.: The Free Press, 1972), pp. 143-162. See also Warren F. Kuehl, *Seeking World Order: The United States and International Organization to 1920* (Nashville: Vanderbilt University Press, [1969]), *passim*; C. Roland Marchand, *The American Peace Movement and Social Reform 1898-1918* (Princeton: Princeton University Press, 1972), esp. chapter four; and David S. Patterson, *Toward a Warless World, The Travail of the American Peace Movement 1887-1914* (Bloomington: Indiana University Press, 1976), pp. 141 ff. Carnegie's letter creating the Endowment appears in Carnegie Endowment for International Peace, *Year Book for 1911* (Washington, D. C.: 1911), pp. 1-4. The yearbook will hereafter be cited as *CYB* with the date following.

² Advocacy in the United States of a league of nations during the First World War is described in Kuehl, *ibid.*; Ruhl H. Bartlett, *The League to Enforce Peace* (Chapel Hill, N. C.: U. of N. Carolina Press, 1944); and Martin David Dubin, "The Development of the Concept of Collective Security in the American Peace Movement, 1899-1917," Ph.D. diss. Indiana U., 1960.

³ Basic biographies of Root are Philip C. Jessup, *Elihu Root* (2 vols., N. Y.: Dodd, Mead, 1936) and Richard W. Leopold, *Elihu Root and the Conservative Tradition* (Boston: Little, Brown, 1954). Sondra Herman has written an insightful essay on the internationalism of Root and Nicholas Murray Butler. Sondra Herman, *Eleven Against War* (Stanford: Hoover Institution Press, 1969), pp. 22-54.

tary of war under McKinley and secretary of war and state under Roosevelt, Root had modernized the United States army and then had been one of the prime architects of American imperialism at the turn of the century. He was a Republican Party stalwart, a prominent corporate attorney who stood before the public as a defender of privilege, and Andrew Carnegie's personal counselor.

Root's reputation, however, also rested upon his activities in promoting international conciliation. He worked to further Pan Americanism, routinize the Hague peace conference, extend international arbitration, and develop an international judicial tribunal. He also took a leading role in ameliorating Japanese-American conflict over racial discrimination in California and in creating the Central American Court of Justice in 1907. These services earned him the Nobel Peace Prize for 1913. Root had been instrumental in Carnegie's decision to establish the Endowment. Many of the trustees had been associated with him either in politics or the conduct of American diplomacy.

By 1914, Root was an elder statesman in his party and profession, but at the age of sixty-nine he was not above the battle. He was president of the American Bar Association and the American Society of International Law, which he had led since its inception in 1906. He was also a United States senator from New York, serving on the committee on foreign relations. Associated with Root in the Endowment were Joseph H. Choate, a leader of the New York bar, from 1899 to 1905 U. S. Ambassador to Great Britain, and head of the American delegation to the Second Hague Peace Conference of 1907; Charlemagne Tower, a lawyer and corporate executive who had been U. S. Minister to Austria-Hungary and then U. S. Ambassador to Russia and Germany; Dr. Nicholas Murray Butler, president of Columbia University and acting director of the Endowment's Division of Intercourse and Education;⁴ and Dr. James Brown Scott,⁵ a former international law professor and from 1906 to 1911 solicitor in the Department of State. Scott was the Endowment's full-time secretary and director of its Division of International Law.

The Endowment's other trustees also were dis-

⁴ Butler deserves a biography. Butler's memoirs, *Across the Busy Years* (2 vols.; N. Y.: Charles Scribner's Sons, 1940), are unsystematic and disappointing.

⁵ Scott deserves a biography. Kuehl, Marchand, and Patterson trace his involvement in the peace movement. Calvin DeAmond Davis in *The United States and the Second Hague Peace Conference, American Diplomacy and International Organization, 1899-1914* (Durham, N. C.: Duke University Press, 1976) traces Scott's efforts at the 1907 Hague peace conference and in the movement for a third Hague peace conference. A useful doctoral dissertation, which lightly touches on Scott's First World War activities, is Ralph Dingmann Nurnberger's "James Brown Scott, Peace Through Justice," Ph.D. diss., Georgetown University, April, 1975.

tinguished figures in government, finance, education, and philanthropy.⁶ Between 1914 and 1918, they included John Watson Foster, a former U. S. secretary of state who had represented China at the Second Hague Peace Conference; Robert Bacon, Root's successor as secretary of state; Luke B. Wright, once governor-general of the Philippines and then Roosevelt's secretary of war; Oscar S. Straus, several times U. S. minister and then the first U. S. ambassador to Turkey who served from 1906 to 1909 as secretary of commerce and labor in Roosevelt's cabinet; Andrew D. White, formerly president of Cornell University, a U. S. ambassador to Germany and head of the American delegation to the First Hague Peace Conference in 1899; David Jayne Hill, one-time assistant secretary of state, ambassador to Germany, and a delegate to the Second Hague Peace Conference; George Gray, for several terms a U. S. senator from Delaware, a peace commissioner in the 1898 war with Spain, and a retired federal circuit judge; John Sharp Williams, a U. S. senator from Mississippi; James Luther Slayden, a Texas congressman, a board member of the American Association for International Conciliation, a leader in the Interparliamentary Union, and, from June, 1917, president of the American Peace Society; Thomas Burke, a retired railroad attorney who had been chief justice of the Washington territory; Charles W. Eliot, president emeritus of Harvard University; and Henry S. Pritchett, formerly head of M.I.T. and president of the Carnegie Foundation for the Advancement of Teaching.

They were as a lot politically and socially conservative, and apart from a few southern Democrats, Republican. In the main, they represented corporate America. Many of them had served or would serve on other Carnegie boards; most were at home in government as well as in private pursuit. They believed in the primacy of the individual, limited government, and the obligation of the state to protect individuals in the right to own property. Law they conceived of as an instrument for preserving the *status quo*, and international law as an underpinning for state sovereignty. They reconciled democracy with political and social elitism, and a commitment to international peace with the maintenance, if necessary by armed force, of American national rights. While regarding the international system as dynamic, they did not wish to change its underlying foundations. Their nationalism provided a basis for their inter-

⁶ Lutzker, *op. cit.*, pp. 150-151; Marchand, *op. cit.*, pp. 120 ff.; and Patterson, *op. cit.*, pp. 148 ff. analyze the social, economic, and political affiliations of the Endowment's trustees in 1910. Between 1910 and 1914 two trustees died. During the war three more died and one resigned. The new trustees were of similar social, economic, and political background: lawyers, business leaders, and former diplomats. They were wealthy, conservative, and, with one exception, Republican.

nationalism, but was not submerged in a sentimental desire for peace or a diffuse cosmopolitanism. They were neither pacifists nor one-worlders; such people they regarded as naïve. Rather, many of them were international lawyers. Their goal was to perfect, however slowly, the international legal order and create new institutions for adjusting disputes. They clearly agreed with Root, who, as secretary of state at the time of the Second Hague Peace Conference in 1907, had proposed an international judicial tribunal, periodic Hague peace conferences, and improved machinery for international arbitration.

On the occasion of its establishment, Root declared that the Endowment must "base its actions upon a careful, scientific and thorough study of the causes of war and the remedies which can be applied to the causes." He reflected his fellow trustees' sense of the futility of the peace societies and their belief that the Endowment must strive for "deeper insight into the causes of the disease, of which war is a symptom."⁷ They were certain that, since governments were becoming increasingly subject to popular control, it was necessary to educate public opinion. Fundamentally they mistrusted the masses, who, if uninstructed, might turn international disagreements into passionate conflicts. Root was speaking their minds when in April, 1914, he observed that "no one can study the movement of the times without realizing that the democracy of the world . . . is realizing its rights in advance of its realization of its duties."⁸ In such a circumstance lies "hideous wrong" and "the exercise of the mighty powers of modern democracies to destroy themselves, to destroy the vitality of the principles upon which they depend." Educated men had the duty "to become themselves leaders of opinion and teachers of their people." Unless popular will responded to "instructed and competent leadership" upon vital questions "the worst impulse of democracy" would control. Half of the wars of history had been due to mistaken opinions concerning "national rights and national obligations."

The Endowment thus sought to educate both the people and their potential leaders. It contracted for studies in diplomatic and economic history through its Division of Economics and History headed by distinguished economist John Bates Clark; published classics of international law, cases in the history of international arbitration, and subsidized international legal studies and education through the division headed by Scott; and sponsored propaganda—

public lectures, educational exchanges, travel grants, and the distribution of important works to public and university libraries in the United States and abroad—through the division headed by Butler.

The Endowment employed correspondents and agents in Europe, Asia, and Latin America and maintained offices in Paris and New York City as well as headquarters in Washington, D. C. It became a major source of funds and encouragement for international law and conciliation societies, many of which were created on its initiative. While skeptical about the peace movement, the Endowment assumed the personal obligations of Andrew Carnegie to fund peace societies in various nations.⁹

In the United States the Endowment mobilized support for the 1911–1912 Anglo- and Franco-American arbitration treaties which had run afoul of the United States Senate, worked for the calling of a third Hague peace conference, and sought to ameliorate international tensions caused by anti-Japanese sentiment in California and by congressional legislation, which in violation of treaty obligation, exempted American coastwise shipping from tolls in the Panama Canal. The trustees resolved to use the American Association for International Conciliation, which Butler had established in 1907 with Carnegie's money, "as the chief agency for propaganda" in the United States and to employ the venerable American Peace Society to rationalize and strengthen the peace organizations.¹⁰ Under the Endowment's prodding, the Society moved its headquarters from Boston to Washington, D. C., hired an executive director, developed a regional structure, and extended its grass roots.

With the First World War, the Endowment curtailed its European activities. It concentrated upon educating Americans and improving Pan American relations. Most of its trustees were Anglo- and

⁷ Remarks by Root, December 14, 1910, *CYB*, 1921 (Washington, D. C.: 1922), p. 23.

⁸ E. Root, "Remarks as chairman of the Conference of Teachers of International Law and Related Subjects," *Proceedings of the American Society of International Law at its Eighth Annual Meeting held at Washington, D. C., April 22–25, 1914* (Washington, D. C.: 1914), p. 252.

⁹ C. W. Eliot to J. B. Scott, March 27, 1913. "My belief is, peace societies in general are likely to do more harm than good to the cause of peace. . . ." J. B. Scott to C. W. Eliot, April 4, 1913. "Our views on peace societies agree. . . ." N. M. Butler to C. W. Eliot, April 8, 1915. ". . . I think that much money expended upon Peace Societies is not practically useful in promoting the cause we have at heart." C. W. Eliot Papers, Harvard University Archives; N. M. Butler to R. S. Brookings, August 21, 1913, Carnegie Endowment for International Peace Papers (hereafter CEIP), Columbia University. "My head tells me that Dr. Eliot is right when he urges that we should give no support, whatever, to these Peace Societies, but for sentimental reasons, and because of what these men have done in the past, it has seemed to me desirable to aid them. We made a mistake, I think, in giving them so much at first, but I should have no personal objection to seeing that they are reasonably taken care of for a number of years to come. On the other hand, we must face the fact that many of our colleagues on the Board of Trustees, take a contrary view, and would be glad to cut off these payments altogether."

¹⁰ *CYB*, 1911, *op. cit.*, p. 68; *CYB*, 1912 (Washington, D. C.: 1913), pp. 76–79.

Francophilic, but whatever their sentiments, they professed to want to insulate the Endowment from controversies engendered by the war.¹¹ By early 1916, however, the antiwar activities sparked by radical, socialist, and feminist recruits to the peace movement had so offended them that many of the trustees wanted to end Endowment subsidies to peace societies despite the fact that the new activists were in organizations not under the Endowment's aegis. There was even a proposal to remove the word "peace" from the Endowment's name.¹² Out of deference to Carnegie, they did neither. By the middle of 1915, however, they began to constrain client societies, and during the first part of 1916 they increased these efforts. In April and May of 1916 Scott helped draft a new constitution for the American Peace Society which tightened its hold over its locals, some of which had embraced sanctionism.¹³ Then, fending off those who would name a prominent pacifist to the Society's vacant presidency, Butler insisted that one of his

associates, George W. Kirchwey, dean of Columbia University's law school, a veteran peace advocate and a foe of sanctionism, be appointed. When Kirchwey early in 1917 embarrassed the Endowment by his antiwar activities, he was replaced by Congressman Slayden.¹⁴

Moreover, in October, 1916, Dr. Samuel T. Dutton, dean of Columbia University's Teachers College, was elected general secretary of the World's Court League, until then a rather ineffectual internationalist organization. This league was brought into close association with the Endowment. A friend of Butler's and Scott's, Dutton subsequently also maneuvered the New York Peace Society out of the ambit of the League to Enforce Peace.¹⁵ In December, 1916, as the first partisan furor over a league of nations occurred in the United States, internationalists and pacifists associated with the Endowment were preparing to do battle with the sanctionists. They were eager, however, to avoid a divisive fight with those who at least believed in the need for the United States to take an active part in postwar international organization. As a result, a battle over the character of a league of nations was postponed.

With the United States approaching war early in 1917, the Endowment's trustees became increasingly uneasy about their reputations. On February 23 they declared that "never for a moment" had they "assented to the false and pernicious doctrine that peace can be promoted by the failure of a great nation to maintain its just and substantial rights." They condemned efforts "to prevent or hinder timely and adequate" military preparations necessary to defend American rights and liberties; and in March, they aided President Wilson in his efforts to obtain congressional approval for a program of "armed neutrality."¹⁶

Soon after America entered the war, the trustees proclaimed that "the most effective means of promoting durable international peace is to prosecute the war against the Imperial German Government to final victory for democracy, in accordance with the policy

¹¹ Carbon N. M. Butler to A. G. Fox, September 29, 1914, and carbon N. M. Butler to A. D. Call, October 1, 1914, CEIP; "Report of the Acting Director, Division of Intercourse and Education" for 1915 and 1916, *CYB*, 1915 (Washington, D. C.: 1916), pp. 55 ff, esp. pp. 55-56, and in *CYB*, 1916, *op. cit.*, pp. 49 ff, esp. pp. 49-51. Nonetheless, Butler actively opposed the military preparedness movement. *New York Evening Post*, December 7, 1914; N. M. Butler to *New York Times*, December 10, 1914; and N. M. Butler, "An Address Delivered at the Meeting to Organize a League for the Limitation of Armaments held at the Railroad Club New York, December 18, 1914." This speech was included in a pamphlet, "The Preparedness of America," issued by the Endowment. He was saying as late as March 17, 1915: "The movement for an investigation into the military preparedness of the United States and for the increase of military and naval armaments here makes it imperative that the general public should be fully informed as to the significance of an agitation of this kind and as to the results to which it may lead, if not kept within bounds of reason." *CYB*, 1915, *op. cit.*, p. 56. In May, 1915, Butler refused to endorse an American League to Limit Armaments statement, but he resigned from this league only in February, 1916. Then Root was emerging as a major critic of American preparedness policies and Butler was booming Root for the Republican presidential nomination. Carbon H. S. Haskell to L. H. Wood, May 20, 1915, and carbon N. M. Butler to L. H. Wood, February 25, 1916, CEIP. Endowment support for public lectures was ended in mid-1916. H. S. Haskell to E. F. Dale, October 31, 1916, W. I. Hull Papers, Swarthmore College Peace Collection (hereafter SCPC). Carbon N. M. Butler to A. D. Call, October 1, 1916, CEIP.

¹² Minutes of the Executive Committee, April 21, 1916, CEIP. Eliot, in fact, urged that all activities of the Division of Intercourse and Education be ended; they were positively injurious to the cause of peace. C. W. Eliot to J. B. Scott, October 30, 1916, CEIP.

¹³ Minutes of the Executive Committee, April 21, 1916, and carbon N. M. Butler to C. W. Eliot, May 22, 1916, CEIP. Minutes of the Executive Committee, American Peace Society, April 29, 1916, and Minutes of the Semi-Annual Meeting of the Board of Directors, American Peace Society, May 13, 1916, Chicago Peace Society Papers, Chicago Historical Society. Dubin, "The Development of the Concept of Collective Security . . .," *op. cit.*, pp. 338ff.

¹⁴ A. D. Call, the society's executive secretary, as cited in Patterson, *op. cit.*, p. 241, noted: "Butler favors Kirchwey and Mammon may therefore have a controlling voice in the situation." Also G. Kirchwey to A. G. Spencer, May 20, 1917, A. G. Spencer Papers, SCPC. ". . . I was eliminated from the American Peace Society. The cause was the recent action of the Carnegie Peace Endowment in refusing to continue the subvention of \$25,000 per annum . . . partly at least on the ground of its strong disapproval of efforts made by me early in February . . . to heal the breach between the German government and our own." A. D. Call to H. C. Morris, March 28, 1917, and J. J. Hall to H. C. Morris, May 7, 1917, Chicago Peace Society Papers.

¹⁵ S. T. Dutton to J. B. Scott, October 3, and November 29, 1916, James Brown Scott Papers. Georgetown University.

¹⁶ *CYB*, 1917 (Washington, D. C.: 1917), pp. 21-22; carbon J. B. Scott to Members of the House and Senate, March 28, 1917, CEIP.

declared by the President of the United States.”¹⁷ They volunteered their offices and staffs for government service, and in November, 1917, and April, 1918, reiterated their dedication to the force of arms.¹⁸ To obviate possible misunderstanding, they embossed their letterhead with the slogan “Peace Through Victory,” reduced their public activities to a minimum, and contributed large sums to charitable and humanitarian causes.¹⁹

During the war a more patriotic board could not be found in America. The Endowment, however, also had an internationalist program. Late in 1914 Carnegie suggested that the Endowment make some public statement to encourage friends of peace. Accordingly, Root prepared a resolution which was published on February 16, 1915, over the signatures of twenty-five trustees.²⁰ It referred to the “interdependence of nations” and proposed that “definite rules of national conduct should be agreed upon; that a court of competent jurisdiction should be established to judge of national conformity to those rules; and that new sanctions should be provided to compel respect for the judgments rendered.” The Endowment in April, 1917, proposed to make “a special effort to overcome the remaining obstacles to the establishment of an International Court of Justice,” and in May, 1917, underwrote a national conference on America’s future role in world affairs.²¹

Some of the Endowment’s trustees actually favored a forceful international sanction. This group included

¹⁷ *CYB*, 1917, *ibid.*, p. 181.

¹⁸ *Ibid.*, and *CYB*, 1918 (Washington, D. C.: 1918), p. 19. The Endowment asked the State Department to disseminate their patriotic resolution of November 1, 1917. N. M. Butler to Secretary of State, November 9, 1917, U. S. Department of State, Decimal File 1910–1929, RG 59, 763.72119/927, National Archives.

¹⁹ *CYB*, 1919 (Washington, D. C.: 1919), pp. 33 ff., 63–64. In April, 1918, Eliot wished the Endowment to terminate all of its regular activities and use its money to promote universal physical education and to combat alcoholism. C. W. Eliot to J. B. Scott, April 13, 1918, CEIP. Wright, believing the Endowment’s activities were diversions from the war effort, resigned as a trustee. L. B. Wright to J. B. Scott, April 13, 1918, CEIP. As late as October 29, 1918, Root told Scott that the November, 1918 meeting of the Endowment should not be held. “The bases of future action are not sufficiently developed to make intelligent opinion possible.” E. Root to J. B. Scott, October 29, 1918, CEIP.

²⁰ Carbon A. Carnegie to E. Root, December 29, 1914; J. B. Scott to A. Carnegie, December 30, 1914, Andrew Carnegie Papers, Library of Congress; *CYB*, 1915, *op. cit.*, pp. 18–19.

²¹ Minutes of the Executive Committee, January 4, 1917; Minutes of the Board of Trustees, April 19, 1917; carbon J. B. Scott to J. A. Poynton, March 30, 1918, CEIP. A “Conference on the Foreign Relations of the United States” was held in Long Beach, New York, from May 28–June 1, 1917. See the two volumes *Proceedings of the Academy of Political Science in the City of New York VII*, No. 2 and No. 3 (July, 1917).

Gray, Jacob G. Schmidlapp, a Cincinnati banker, Slayden, Straus, White, and Williams. Along with John Bates Clark, they were original members of the League to Enforce Peace. Most of them, however, were only nominally associated with the League, and Slayden and perhaps Gray wavered in their support.²² Straus and Clark were the most active participants, but by July, 1916, Clark had concluded that an economic or military sanction would not be established at the war’s end. As a consequence, he urged the sanctionists to collaborate with other internationalists. Straus, while not abandoning sanctionism, also favored an internationalist coalition.²³

In a separate class was Charles W. Eliot, who in 1915 refused to sign Root’s statement mentioning new sanctions, at least partly because it was too vague. He had in September, 1914, asked the trustees to subscribe to the principle of “an international force adequate to deal with any nation that suddenly becomes lawless,” and had been turned down. Eliot, himself, never worked out a program. He despised the peace societies, rejected the need for organized propaganda, and refused to join the League to Enforce Peace. He favored an alliance of democracies directed against German militarism. While his suggestions varied, virtually month by month, Eliot’s supranationalism had no practical significance.²⁴

²² Slayden resigned as a League vice president in November, 1915, changed his mind, and was reelected to that honorific post in November, 1916. Minutes of the Committee on Management, November 10, 1915, and November 29, 1916, League to Enforce Peace Papers (hereafter LEP), Harvard University. Scott told Bryce in 1918 that Gray had changed his mind about the League. Carbon J. B. Scott to Lord Bryce, August 12, 1918, Scott Papers.

²³ Straus tried to establish a broad collaboration among those favoring new institutions. See, for example, Minutes of the League to Enforce Peace—World’s Court League Joint Committee, January 30, 1917, LEP Papers. See below, pp. xx and xx, and Naomi W. Cohen, *A Dual Heritage: The Public Career of Oscar S. Straus* (Philadelphia: Jewish Publications Society of America, 1969). Straus’s own memoirs, *Under Four Administrations* (Boston: Houghton Mifflin Company, 1922), is of little value for this study. For Clark’s views, see J. B. Clark to W. H. Short, July 25, 1916, LEP Papers. Lowell in 1917 claimed that Clark had “always been a somewhat weak brother.” A. L. Lowell to W. H. Short, February 9, 1917, LEP Papers.

²⁴ Before the war Eliot had called for an international navy. See, for example, Eliot’s annotations on J. B. Scott to C. W. Eliot, June 9, 1914, Eliot Papers. His earliest war-time statement, quoted in this paper, comes from C. W. Eliot to the Editor, September 1, 1914, *New York Times*, September 4, 1914. See also carbon C. W. Eliot to J. B. Scott, September 7, 1914; J. B. Scott to C. W. Eliot, September 29, 1914; Eliot’s annotated copy of Root’s draft resolution, January 27, 1915; carbon C. W. Eliot to E. Root, January 31, 1915, Eliot Papers. Eliot questioned Root’s phrase “new sanctions.” The term seemed “hollow.” Root’s paper, he said, “deals obscurely with the main issue—the means of enforcing the decisions of the Federal Court or Council. The trumpet seems to me to sound ‘an uncertain

Other trustees, more influential than the sanctionists, mostly Republican and staunchly partisan, were unremittingly opposed to the League to Enforce Peace and what they perceived to be Woodrow Wilson's support of sanctionism. This group included Root, Butler, Choate, who deemed the League to Enforce Peace as a "league to make war," and Pritchett, who described its sanctions provision as "a bone stuck in my throat."²⁵ Their hostility was shared by Bacon, Burke, Austen G. Fox, a Wall Street attorney and a close friend of Butler's, and Wright.²⁶

Hill, who became a trustee only in 1918, had in 1911 lectured at Columbia University on the theme "World Organization as Affected by the Nature of the Modern State." He then observed that "a mutual guarantee, on the part of Sovereign States that they will not resort to force against one another," so long as justice had not yet been exhausted, was a logical next step in developing world order.²⁷ In 1911 Hill would not speculate about its likely achievement. During the First World War, he virulently criticized both Wilson and sanctionism.²⁸

James Brown Scott, moved by a determined anti-sanctionism, but not partisanship, became the most ardent public opponent of the League to Enforce Peace and the chief mobilizer of its internationalist

and pacifist foes. Moreover, Scott, a nominal Democrat employed by the Department of State throughout the war, secretly conspired with Wilson's leading foreign policy critic within the Administration, Secretary of State Robert Lansing, to change what they perceived to be the chief executive's views on international organization.

The dominant personalities in the Endowment were Root, Butler, and Scott. They called the Endowment "a scientific institution," and denied that it was a propaganda society, but they used it to propagate their ideas. They were eager to develop public sentiment in support of American participation in a post-war international organization, but one founded upon the voluntarist principles of the prewar Hague system. Thus, in varying ways, they took on both the League to Enforce Peace and President Wilson. In the cases of Root and Butler opposition to sanctionism was reinforced by their contempt for the Democrat in the White House.

* * * * *

Elihu Root's views on international organization had matured long before the First World War. In 1907 he had instructed the Americans attending the Second Hague Peace Conference to support a gradual and organic growth of new institutions.²⁹ He endorsed the substitution of multilateral for bilateral arrangements in international arbitration, proposed a judicial tribunal to settle disputes on the basis of law rather than compromise, and indicated that the Hague conferences should be routinized.

Referring to the "power of the marshal or the sheriff," Root in May, 1907, confessed that he was looking for some sanction for international law. It had been widely believed, he noted, that the only sanction would be the exercise of force. On the contrary, Root believed that "the program . . . in American international relations" had been "progress along the pathway that leads from the rule of force . . . to the rule of public opinion, which enforces its decrees by an appeal to the desire for approbation among men."³⁰ He elaborated this view in 1908, telling the American Society of International Law that even in domestic society the sheriff and policeman are kept

sound.'" See also Henry James, *Charles W. Eliot, President of Harvard University, 1869-1909* (2 vols.; Boston: Houghton Mifflin Company, 1930) II: pp. 252 ff.

²⁵ For Choate's views see Edward S. Martin, *The Life of Joseph Hodges Choate . . .* (2 vols., N. Y.: Charles Scribner's Sons, 1921) II: pp. 337-338 and 381, and J. H. Choate to Lord Bryce, November 22, 1916, Lord Bryce Papers, Bodleian Library, Oxford University. Pritchett, the only trustee to attend one of the meetings which led to the creation of the League to Enforce Peace, at the time objected to a coercive sanction. John H. Latane, ed., *The Development of the League of Nations Idea, Documents and Correspondence of Theodore Marburg* (2 vols.; N. Y.: The Macmillan Company, 1932) II: p. 715. See also H. S. Pritchett to W. H. Taft, May 7, 1918, W. H. Taft Papers, Library of Congress. The papers of Choate, Pritchett, and Straus are in the Library of Congress, but they are not very helpful for this study.

²⁶ Fox was an original member of the League's executive committee, but he resigned expressing doubts about sanctionism. Minutes of the Executive Committee, June 29, 1915, LEP Papers. See T. Burke to J. B. Scott, March 30, 1918; Minutes of the Executive Committee, April 21, 1916; and Minutes of the Board of Trustees, April 19, 1917, CEIP; E. Drummond Minute, January 1, 1917, on jacket of Sir Cecil Spring-Rice to Lord Arthur J. Balfour, December 12, 1916, F. O. 371/2803, papers of the Foreign Office, Public Record Office, London.

²⁷ David Jayne Hill, *World Organization as Affected by the Nature of the Modern State* (N. Y.: Columbia University Press, 1911), pp. 148 ff and 201.

²⁸ Aubrey Parkman, *David Jayne Hill and the Problem of World Peace* (Lewisburg: Bucknell University Press, 1975), 185-188. See also David Jayne Hill, *The Rebuilding of Europe, A Survey of Forces and Conditions* (N. Y.: The Century Co., 1917), pp. 172 ff.

²⁹ Carnegie Endowment for International Peace, Division of International Law, *Instructions to the American Delegates to the Hague Peace Conference and their Official Reports*. Edited with an introduction by James Brown Scott, Director (N. Y.: Oxford University Press, 1916), pp. 69-85. Root's ideas are examined in Martin David Dubin, "Elihu Root and the Advocacy of a League of Nations, 1914-1917," *The Western Political Quarterly* XIX, No. 3 (September, 1966): pp. 439-455.

³⁰ E. Root, "The Pan American Cause . . .," Washington, D. C., May 18, 1907, *Latin American and the United States: Addresses by Elihu Root*, collected and edited by Robert Bacon and James Brown Scott (Cambridge: 1917), pp. 219-222, esp., p. 220.

in reserve for use only against the occasional non-conformist.³¹ Most men obey law out of respect for, and fear of the consequences of flouting, public opinion. With the growth of international relationships a public opinion was developing that would in the vast majority of cases constitute the real sanction for international rules. For the "occasional and violent or persistent law-breakers," there remained "the ultimate possibility of war."

Prior to the First World War, Root never wavered. In his Nobel Peace Prize address, scheduled for September 8, 1914, but not delivered because of the war, he labeled the idea of "an international police force with power to enforce national conformity to rules of right conduct" a "counsel of perfection."³² The world was not ready and could not be made ready for such institutions except by the practical surrender of national independence. This would mean that each nation "was liable to be lawfully controlled and coerced by a majority of alien powers" which alone could establish "when and for what causes and to what ends the control and coercion should be exercised."

The fundamental problem was that "human nature must have come nearer perfection than it is now, or will be in many generations, to exclude from such a control prejudice, selfishness, ambition and injustice."³³ Any attempt to prevent war by creating a super-government would merely breed war. Instead, Root reiterated his 1907 program: a "permanent court composed of judges who devote their entire time to the performance of judicial duties . . . not to adjust or compromise differences, but to decide upon rights in accordance with the facts and law; the further development of international law; and additional Hague assemblies at regular intervals."³⁴

As before, Root found that in an age of expanding constitutional government, public opinion would render judgment "upon the just and unjust conduct of its individual members."³⁵ The chief factor contributing to peace would be not the police officer, but "the praise and blame, the honor and shame, which follow observance or violation of the community's standards of right conduct." In this new era, an international police would be unnecessary, for "when any people feels that its government has done a shameful thing and has brought them into disgrace

in the opinion of the world, theirs will be the vengeance and they will inflict the punishment."³⁶

The events leading to the First World War turned Root's attention to political, as distinct from legal, disputes, and now he spoke of enforcing "rules of conduct relative to national policy."³⁷ In November, 1914, he condemned "the different national policies, long continued, traditional, secretly shaping conduct and ultimately conflicting which make war inevitable." He was "coming to think that the countries which can best keep the peace are democracies which have no foreign policy whatever, or, if they have one, are incapable of adhering to it."³⁸ It was in this frame of mind that Root prepared the Carnegie Endowment resolution mentioned above.³⁹

Root continued to struggle with the idea of "new sanctions." Repelled by those seeking panaceas, in February, 1915, he agreed, perhaps rhetorically, that the world was moving irresistibly towards an international parliament with a Hague tribunal and police. The enforcement of international rules, however, raised the question of "how far the United States is willing to abandon its policy against entangling alliances and interference in the affairs of Europe." It was going to be "a business for experts who combine technical knowledge with imagination." The "abundant vocabulary of the well-meaning pacifist would not be very useful."⁴⁰ Somewhat later, Root observed that an international police without a court "would be the agent of an irresponsible majority reducing all sovereigns to vassalage and destroying national independence."⁴¹

Again, toward the end of March, 1915, Root identified a court; a tribunal of conciliation to deal with political issues "*not authorized to decide*,"⁴² but "authorized to investigate and report"; law for the court to administer; and a sanction to "compel obedience to the judgment of the court" as essential institutions.⁴³ The burden of proof, however, rested upon those asserting that an international police "can be relied upon to subserve proper purposes only and not be perverted by ambition, desire for power, or gain and by all those motives which have been the cause of war." Human nature and the causes of war would not change. Could there be a war that would

³⁶ *Ibid.*, pp. 167-168.

³⁷ Copy memorandum attached to E. Root to H. Holt, August 8, 1914, New York Peace Society Papers, SCP.

³⁸ Carbon E. Root to Lord Bryce, November 21, 1914, Elihu Root Papers, Library of Congress.

³⁹ See above p. 348.

⁴⁰ E. Root to C. F. Adams, February 11, 1915, Jessup, *op. cit.* II: p. 373.

⁴¹ E. Root to L. Oppenheim, March 6, 1915, *ibid.*, p. 375.

⁴² Emphasis added.

⁴³ "Remarks of Mr. Root on Further Progress in Establishing an International Court . . . March 27, 1915," Memorandum in CEIP.

³¹ E. Root, "The Sanction of International Law," presidential address at the second annual meeting of the American Society of International Law, Washington, D. C., April 24, 1908, *Addresses on International Subjects by Elihu Root*, collected and edited by Robert Bacon and James Brown Scott (Cambridge: 1916), pp. 25-32.

³² E. Root, "Nobel Peace Prize Address," *Addresses on International Subjects* . . . , *ibid.*, pp. 153-174.

³³ *Ibid.*, p. 157.

³⁴ *Ibid.*, p. 161.

³⁵ *Ibid.*, p. 163.

"not operate on this police force with as great or greater effect that [*sic*] it operates upon the sovereign forces?"

While the problem would have to be worked out "slowly, step by step," Root "could not see a way through." Even so, various methods existed, such as reprisal and commercial boycott, for enforcing a judgment.

If a nation finds herself cut off from all commercial intercourse, if it be part of the agreement that from the instant that . . . a conference finds a refusal to abide the judgment of the Court or the Court finds it, all shipments of arms, munitions of war and materials out of which arms and munitions may be made, all shipments of anything which would be treated as contraband, shall become unlawful and that the illegality may be enforced by the vessels of any power, or if a pacific blockade is declared of the ports of the recalcitrant country, you have pretty strong methods of compelling compliance.

Such measures might be taken apart from the United States maintaining a large army to wage war against a violator of an international court judgment. Yet, Root stressed again that "the path to peace is through the spread of the principles of democratic government." The very qualities "essential to the successful conduct of free government in a nation . . . are the qualities that are essential to the maintenance of peace among nations."⁴⁴

The formation of the League to Enforce Peace afforded Root new opportunities for reflection. He declined to join the League's executive committee, but looked "with great favor" on the league "as a means of educating public sentiment." He agreed with much of the League's program, but objected to the proposed court determining its own jurisdiction and to a sanction which would result "in the most absolute entanglement in the international politics of Europe." The League would require enlarging America's armed forces "for obligatory interference in questions between other nations." If the U. S. would adopt such a policy, it should help punish the Germans who had violated their international obligations by attacking Belgium. Root doubted that the United States would enter the war or that Americans would support the League's program "upon the slight consideration which can be given at a public meeting even of very intelligent people." Nonetheless, he affirmed the need for "some kind of sanction" to enforce court judgments, a proposal more far-reaching than the League's, but one which Root conditioned upon an Entente victory.⁴⁵

The issue was joined again in December, 1915. Root then agreed that he did not withhold his ap-

proval "of force for the maintenance of international law when it cannot be maintained otherwise." The world was still "in the early stages of developing that public opinion upon which the rules of law for the protection of liberty and justice may rest securely." It seemed "senseless folly to neglect to control national violence and crime by the only means now possible."⁴⁶ However, in a major public address at the year's end Root insisted that a forceful sanction required prior consensus which "cannot consist merely in the possibility of being defeated in a conflict with an enemy," or merely of "written agreements," or the "accidental dictates of particular interests." It would have to proceed from "general, concurrent judgment and condemnation." Alternative to punishment by governments would be "the terrible consequences which come upon a nation that finds itself without respect or honor in the world and deprived of the confidence and goodwill necessary to the maintenance of intercourse."⁴⁷

The League's leaders, missing Root's subtlety, made new overtures to him.⁴⁸ In response, he said that he agreed "in general" with the League, and would join it if he could do so without assenting to two provisions which he deemed "not essential to the plan."⁴⁹ He still was opposed to empowering a court to set its own jurisdiction. Moreover, while in August, Root had suggested that enforcement would involve entanglements, now he addressed the substance of the proposed obligation. "I agree to the proposition that the signatory powers shall jointly or in concert use both their economic and military forces to compel compliance with the provisions for the submission of all justiciable questions to the appropriate tribunal," he declared. It was another matter to agree to employ force against a state going to war before submitting questions in dispute to a tribunal.

About half the time it would require us to go to war with the wrong country and to help the real aggressor. It would absolutely furnish protection to the greater part of the international injustice which occurs. It would protect Mexico in permitting our citizens to be killed in her territory and refusing all reparation and protection. It would protect Germany in establishing a naval base in the Caribbean commanding the Panama Canal. It would protect Denmark in restoring the Sound dues. It would give immunity to all acts of international aggres-

⁴⁴ E. Root to H. Holt, December 3, 1915, Hamilton Holt Papers, Rollins College.

⁴⁷ E. Root, "The Outlook for International Law," presidential address at the ninth annual meeting of the American Society of International Law, Washington, D. C., December 28, 1915, *Address on International Subjects . . .*, *op. cit.*, pp. 391-403.

⁴⁸ Carbon A. L. Lowell to W. H. Short, December 31, 1915, and A. L. Lowell to E. Root, January 5, 1916, Lowell Papers; W. H. Taft to W. H. Short, January 4, 1916, LEP Papers.

⁴⁹ E. Root to A. L. Lowell, January 14, 1916, Lowell Papers. Root's criticisms resulted in modification of the "official interpretations" placed on its platform by the League to Enforce Peace executive committee. See Dubin, "The Development of the Concept of Collective Security . . .," *op. cit.*, p. 189.

⁴⁴ *Ibid.*

⁴⁵ Minutes of the Executive Committee, June 29, 1915, LEP Papers; carbon A. L. Lowell to E. Root, July 28, 1915, and E. Root to A. L. Lowell, August 9, 1915, A. Lawrence Lowell Papers, Harvard University Archives.

sion except war and substitutes no other protection in its place. The provision assumes that the nation which makes war is necessarily the one which is unwilling to submit its rights to a peaceable decision. The contrary is quite often the case, yet under this provision the wrong doer [*sic*] would be allowed to continue its acts of injury against another and to refuse to submit those acts to the court's decision, while the injured nation would be compelled to submit to injury because it could not protect itself by its own force without having the whole world make war upon it. Such a provision does not fit the real life of the world and could not possibly be practically applied.

Root cushioned these remarks by noting that with careful study the League's general principles might yet be worked out.

Root's friendliness encouraged Lowell to request a letter for public use.⁵⁰ Root complied, cautiously agreeing with "the purposes and general principle" of the League. He maintained that to escape the arms burden, alliances, and recurring wars there would have to be "a more systematic treatment of international disputes brought about by common agreement among civilized nations." Included would be the better formulation of international law, an international court to apply the law, "and a general agreement to enforce submission to the jurisdiction of the court." He also endorsed a "court of conciliation" for non-justiciable disputes. Root, though, could not accept the League's "details of method," which, he declared, probably are "not necessary to the principle for which you are seeking public support. . . ." ⁵¹ Root's letter was used to imply that the League enjoyed his confidence. Actually, it fell short of what had been desired, and was a modification of an earlier letter in which he specifically declined to join the League.⁵²

In this duality of praise and criticism Root remained consistent. He told former British ambassador Lord Bryce six months later, while crediting Taft and Lowell with having done some good work, that they "went too far . . . in putting into their platform a positive engagement to go to war upon the happening of specified events in the future, so broadly stated as to include the whole world and necessarily so." ⁵³ The League's platform, he claimed, would place "the power

of peace and war out of a nations [*sic*] own hands and would put the honest at the mercy of the designing." Such a treaty would not be kept by any democratic country whose people did not at the time feel there was anything for which to fight.

Root outlined instead a project for a court, a commission to investigate and report on non-justiciable matters, and periodic meetings to settle the law. One rule of the law would be "that offenses by one nation against another of the kind which in municipal law we call crimes are legal injuries to every state and are to be redressed by all." Under this proposal there would be the obligatory submission of disputes; provision that "in any case threatening war upon the call of a given number of states there should be an immediate diplomatic conference or Congress for discussion and effort to adjust, [*sic*] and suspension of all action on both sides meantime," and agreement "that in case of refusal to submit proper cases to the court or to the commission or to attend and await the action of a conference when called, or to obey judgment [*sic*] etc., etc. all the signatories will cooperate by such means as at the time they respectively find to be appropriate to prevent the wrong doer [*sic*] from reaping advantage from its illegal conduct."

Root left unclear how a moratorium on war would be maintained, how legal injuries would be redressed, and how a wrongdoer would be "prevented from reaping advantage from its illegal conduct." He still had doubts as to how far and fast international organization would develop. Until the war was over, it would remain uncertain whether any progress could be made. Meantime, Root conceived of himself as stimulating American internationalism and helping to moderate those who would establish a coercive sanction. His mild encouragement of the sanctionists served these purposes, but did not commit him in specific ways.

Toward the end of 1916, as the discussion of post-war institutions moved toward the center of American diplomacy, Carnegie Endowment officials actively promoted their conceptions of the future international order. Root did his share by suggesting considerations more fundamental than the program of the League to Enforce Peace.⁵⁴ "There is but one power on earth," he declared, "that can preserve the law for the protection of the poor, the weak and the humble; there is but one power on earth that can preserve the law for the maintenance of civilization and humanity, and that is the power, the mighty power of the public opinion of mankind." Without it "your leagues to enforce peace, your societies for a world's

⁵⁰ W. H. Short to A. L. Lowell, January 22, 1916; E. Root to A. L. Lowell, February 9, and 19, 1916; carbon A. L. Lowell to E. Root, February 14, 1916, Lowell Papers.

⁵¹ E. Root to A. L. Lowell, February 10, 1916, World Peace Foundation, *Pamphlet Series*, VI, No. 3 (June, 1916): p. 3.

⁵² Root's letter originally read, in part: "I cannot join the League because your proposals go farther into details of method—and as to those details I cannot agree." E. Root to A. L. Lowell, February 10, 1916; W. H. Short to A. L. Lowell, March 15, 1916, Lowell Papers. See also carbon E. Root to Mrs. L. Lyndon Hobbs, February 4, 1916, Root Papers.

⁵³ E. Root to Lord Bryce, July 23, 1916, Bryce Papers.

⁵⁴ E. Root, "The Enslavement of the Belgians," An Address at a Mass Meeting in New York City, December 15, 1916, *The United States and the War, The Mission to Russia*, Political Addresses by Elihu Root, collected and edited by Robert Bacon and James Brown Scott (Cambridge: 1918), p. 6.

court, your peace conventions, your peace endowments, are all powerless, because no force moves in this world unless it ultimately has public opinion behind it." Root sounded this precautionary note on December 15, 1916, shortly before President Wilson publicly asked the belligerents to state their terms and agree to a postwar association.

Wilson's overture followed by six days a German peace note and was widely regarded as anti-Entente in character. It unleashed a partisan storm in the United States and raised the hackles of American isolationists. It also resulted in an effort by Secretary of State Robert Lansing, who wanted the United States to join the Entente, and who had his own ideas regarding a league of nations, to sabotage the president's initiative. Even before Wilson's note was dispatched, Lansing, anticipating it, conspired with James Brown Scott to deflect the president from proposing a league that would contain autocracies and rely upon a coercive sanction.⁵⁵

Amidst the controversy over Wilson's intervention, Root on January 4, 1917, led the Endowment's executive committee in calling for "a special effort to overcome the remaining obstacles to the establishment of an International Court of Justice."⁵⁶ This move coincided with efforts by Scott to lay the ground for the Third Hague Peace Conference.⁵⁷ Moreover, the World's Court League, now closely associated with the Endowment, and encouraged by rumors spread by Lansing and perhaps Scott that Wilson had abandoned a coercive peace league, sought to create a coalition of anti-sanctionist societies and to talk the League to Enforce Peace into abandoning sanctionism.⁵⁸ Simultaneously, Oscar S. Straus, a member of several boards, while supporting talks between the two leagues, urged his fellow trustees to meet with a League to Enforce Peace committee to work out their differences.⁵⁹ All these efforts failed. The sanctionists were put at ease by the president's confidant, Colonel Edward M. House, who said that Wilson had not changed his mind; and Root thwarted Straus's appeals within the Endowment.⁶⁰

Then, on January 25, 1917, three days after Wil-

son's stirring "Peace Without Victory" address, Root endorsed with qualification the president's remarks.⁶¹ Shrewdly, he interpreted them in a way that Theodore Roosevelt, watching from the sidelines, believed to be just the opposite of what Wilson had intended.⁶² Root took the president's appeal for an international association to imply no prior automatic obligation by the United States to go to war. This admonition, already implicit in his letter to Lowell, and explicit in his subsequent letter to Bryce, foreshadowed Root's later abhorrence of Article X of the League of Nations Covenant.⁶³ "I do not understand it," he said regarding Wilson's January 22 address, "as intended to commit the United States to enter into a convention or treaty with the other civilized countries of the world which will bind the United States to go to war on the continent of Europe or of Asia or in any other part of the world without the people of the United States having an opportunity at the time to say whether they will go to war or not." Such a commitment would present "serious difficulties, I think insurmountable obstacles." One obstacle was that the American people might default. Instead, Root interpreted Wilson to be saying that a combination should be entered into by all the civilized powers to stand behind the peace "and, if that peace be infringed upon," each nation "shall determine what it is its duty to do" under the terms of its agreement. Nonetheless, despite efforts by Colonel House and direct appeals by Wilson to many trustees for help in obtaining "the consent of the Foundation to back my recent address to the Senate up with a systematic propagation of the ideas and the implicit program which it embodies," Root held the Endowment aloof from the agitation for a peace league. Moreover, he refused to identify with the World's Court League, whose leaders in January, 1917, asked him to assume the honorary presidency of their society, although privately he was sympathetic.⁶⁴

Soon after America entered the war, Root observed that the world could not exist "half democratic and

⁶¹ E. Root, "America's Present Needs," An Address at the Congress of Constructive Patriotism held under the Auspices of the National Security League, January 25, 1917, *The United States and the War . . .*, *op. cit.* pp. 24-25.

⁶² T. Roosevelt to H. C. Lodge, February 5, 1917, H. C. Lodge, ed., *Selections From the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884-1918* (2 vols.; N. Y.: 1925) II: p. 493. See also T. Roosevelt to H. L. Stimson, February 7, 1917, Elting E. Morison, John M. Blum, eds., *Letters of Theodore Roosevelt . . .* (8 vols.; Cambridge: Harvard University Press, 1951-54) VIII: pp. 150-151.

⁶³ Dubin, "Elihu Root . . .," *op. cit.*

⁶⁴ Carbons W. Wilson to Cleveland Dodge, C. W. Eliot, John Watson Foster, George Gray, Samuel Mather, A. J. Montague, Oscar Straus, and John S. Williams, January 29, 1917. Also Woodrow Wilson to D. F. Houston, January 29, 1917, Woodrow Wilson Papers, Library of Congress; E. M. House Diary, February 19, 1917, E. M. House Papers, Yale University. S. T. Dutton to N. M. Butler, January 19, 1917, CEIP.

⁵⁵ Robert Lansing Diary, December 4, 5, and 13, 1916, Robert Lansing Papers, Library of Congress. *New York Times*, December 27, 1916. Copies A. Sweetser to H. Croly, two letters, undated, late December, 1916 and early January, 1917, Arthur Sweetser Papers, Library of Congress.

⁵⁶ Minutes of the Executive Committee, January 4, 1917, CEIP.

⁵⁷ See below, p. 366.

⁵⁸ See footnote 55.

⁵⁹ See, for example, Minutes of the Board of Trustees, April 19, and 20, 1917, CEIP.

⁶⁰ "Confidential Memorandum of Interview on Saturday, January 13, 1917 with Col. E. M. House, Messrs. Hamilton Holt and W. H. Short representing the League," LEP Papers. Carbon W. H. Short to G. Kirchwey, January 19, 1917, W. H. Short Papers, Rollins College.

half autocratic.”⁶⁵ He was sure that the triumph of democracy over autocracy “would remove the chief force which in the past has led nations to break over and destroy the limitations of law,” but he discouraged public discussion of postwar organization. To address such matters was “in a great measure beating the air.” Behind the scenes, however, Root was not inert. In April, 1917, he presented to the trustees the executive committee’s proposal to work for a tribunal. At the same time, he blocked a new request by Straus, speaking for the League to Enforce Peace, that the Endowment support “a general agreement to enforce submission to the jurisdiction of the court.”⁶⁶ That autumn, following a wartime mission to Russia, Root at the request of Lansing involved the Endowment in a futile effort to salvage the Central American Court of Justice which was going out of existence.⁶⁷

As late as April, 1918, Root professed that he had “not been able to take such a very active interest” in schemes for an international organization. The drafting of plans for a league of nations would amount to little more than “intellectual gymnastics.”⁶⁸ Nonetheless, that month at the request of Colonel House, who was anxious to harmonize American internationalists, Root had attended a meeting to exchange ideas regarding a league of nations.⁶⁹ Present then in House’s New York City apartment in addition to Root had been Taft and Lowell; Sidney Mezes, head of The Inquiry, a research enterprise established by House for the president to gather data for the peace conference; and the archbishop of York, who was eager to learn American ideas on international organization. At the meeting, House read a letter from the president in which Wilson opined that the administrative *constitution* of the league “must grow and not be made; that

we must *begin* with solemn covenants, covering mutual guarantees of political independence and territorial integrity (if the final territorial agreements of the peace conference are fair and satisfactory and *ought* to be perpetuated), but that the method of carrying those mutual pledges out should be left to develop itself, case by case.” He was sure that “any attempt to begin by putting executive authority in the hands of any particular group of powers would be to sow a harvest of jealousy and distrust which would spring up at once and choke the whole thing.” Moreover, he believed “[t]he United States Senate would never ratify any treaty which put the force of the United States at the disposal of any such group or body.”

In contrast to Wilson’s organic view, Taft and Lowell maintained that a league should rest upon a formal constitution providing for automatic economic and military sanctions to deter violations of the established international due process. Secretary of State Lansing offered still a different alternative in another letter read by House. He asserted that the acceptance of “Democracy by all the chief powers of the world and the maintenance of genuine democratic governments would result in permanent peace.” A “League of Democracies” would require no enforcement machinery.

Root deplored all three views. He deemed Lansing’s ideas naive, and, while agreeing to a coercive sanction, dismissed the automatic clauses favored by Taft and Lowell, and the territorial guarantee proposed by the president. So complex were European politics and so diverse were the interests of America’s partners that an entirely fair peace seemed unlikely. Even a just settlement might eventually become unjust, and Root feared that an automatic sanction could involve the United States in disputes in which it would have no interest. Furthermore, a guarantee of the *status quo* might perpetuate injustice.

It was decided that Root should prepare a memorandum covering three principles:

1. That every nation was interested in war, no matter how small or in what quarter of the globe.
2. That some machinery should be set up during peace times through which, at the threat of war, a conference of nations could be held for the purpose of making an attempt to stop it.
3. Some machinery establishing a court or bureau of arbitration to which controversial matters might be referred.⁷⁰

Later that month Root argued that electing Taft to the Endowment’s board of trustees might be construed as a sign that the Endowment approved of the League to Enforce Peace.⁷¹ Then, before the execu-

⁶⁵ E. Root, “The Effect of Democracy on International Law,” presidential address at the eleventh annual meeting of the American Society of International Law, Washington, D. C., April 26, 1917, *Proceedings of the American Society of International Law at its Eleventh Annual Meeting held at Washington, D. C., April 26-28, 1917* (N. Y.: Oxford University Press, 1917), pp. 2-11.

⁶⁶ Minutes of the Board of Trustees, April 19, 1917, CEIP.

⁶⁷ Minutes of the Executive Committee, October 8, and November 1, 1917, CEIP.

⁶⁸ *Proceedings of the American Society of International Law at the Meetings of its Executive Council held at Washington, D. C. April 27, 1918, and April 17, 1919* (Washington, D. C.: 1919), pp. 15ff. See, also, E. Root to J. B. Scott, October 29, 1918, CEIP, quoted in footnote 19.

⁶⁹ Charles Seymour, *The Intimate Papers of Colonel House* (4 vols.; Boston: Houghton Mifflin and Company, 1926-28) IV: pp. 11-17 and Ray Stannard Baker, *Woodrow Wilson: Life and Letters* (8 vols.; N. Y.: Doubleday, Doran & Company, Inc. 1927-39) VIII: pp. 43-45. Taft later reported that Root regarded “the President’s proposition as no more than was attempted in the Holy Alliance and indeed in the peace of Westphalia, and it all petered out to nothing.” W. H. Taft to H. D. Taft, April 14, 1918, Taft Papers.

⁷⁰ Seymour, *ibid* IV: p. 16.

⁷¹ Taft received four votes on each of two ballots and three votes on each of two succeeding ballots. Then his name was

tive council of the American Society of International Law, he reiterated a familiar theme: "We must shift from the theory of treating the relations between nations as something depending upon the law of contracts which concerns only the contracting parties, to the view under which the relations between nations are regarded as involving the maintenance of order in the community of nations, which is the concern of every independent country." When this view is accepted, "nations will no longer be fearful of intervening, and there will be no resentment because they do intervene, and the establishment of institutions for the assertion of universal rights of nations will be natural and appropriate and universally accepted."⁷²

In mid-August, 1918, while Wilson and House were conferring on a postwar peace league, House received Root's long-due memorandum.⁷³ In it Root went to the heart of his beliefs: that there should be "a universal, formal and irrevocable" declaration "that an international breach of the peace" concerns every member of the community of nations, which have a right to object. He suggested that when Wilson had proposed enlarging "the Monroe Doctrine to take in the whole world," his proposal carried "by necessary implication" this change in theory. The new theory, "making every sovereign state subject to the superior right of a community of sovereign states to have the peace preserved," would be fatal to Prussianism. Root also argued that there must be institutions to reflect public opinion. Already certain inchoate institutions existed, but they depended upon national initiatives for their employment. A desirable "first and natural step" would be to identify "someone or some group" to demand that disputing states submit their claims to third-parties. States should concert in support of such a demand "and in dealing with any consequence of it."

Nonetheless, Root warned again that "[i]t would be folly . . . for the United States in order to preserve or enforce peace . . . to enter into an agreement which the people of the United States would not regard as binding upon them." Whether Americans would, in fact, honor an agreement calling for war upon the happening of some future event would depend upon how at that time they looked upon the event calling for their action. Some day such a prior commitment might be possible. The time had not yet come, but Root could not say what might follow the war.

While Root and Wilson agreed upon the evolutionary nature of international institutions, the gulf

between them was profound. Wilson had contempt for those who emphasized legal solutions to international problems, and at the mid-August meeting with House he rejected a court as part of a postwar league of nations. Root, in turn, suspected the president's motives, mistrusted his judgments, and feared his influence in shaping the peace.⁷⁴ Toward the end of October, 1918, as the Central Powers were disintegrating, Root expressed optimism about the progress of the war, "but dreadful doubt of what the President really means to do. . . ." ⁷⁵ In November, when it became clear that Wilson intended to be America's chief peace negotiator, Root thought it improper for the president to assume that role. He feared that in Wilson's eagerness to identify himself with a peace league, the president would "force some such arrangement upon the allied nations, and if he attempted to push the world forward into that situation further than the world's development in national and international conditions, the result would be the collapse of the whole scheme." On the other hand, "the adoption of a moderate form of international cooperation, going no further than the world was ready to live up to, would be a decided step forward and perhaps in itself would be sufficient to bring about the next step on a basis which might give promise of permanency." Root was troubled by his belief that Wilson would be more interested in an international executive than an international court, "because undoubtedly he would figure that he himself would be the universal choice for the president of the world." The danger in permitting Wilson to dominate the peace was that "no one knew exactly what he thought about anything, . . . he was a man without convictions and without moral principles, and was more influenced by considerations of self-advantage than by the underlying principles upon which our government was founded, so that the conclusions which he was likely to draw . . . would not be safe conclusions for our Government to follow."⁷⁶

Root, whose selection as a peace commissioner was being urged upon Wilson, felt obliged not to attack the president publicly. However, he conferred with veteran diplomat Henry White, the only Republican named by Wilson to the peace commission, giving him a copy of his August memorandum, and with Republican strategists, who themselves publicly

dropped. "Stenographic transcript of the Annual Meeting of the Trustees, April 19, 1918," CEIP.

⁷² *Proceedings of the American Society of International Law . . . Executive Council . . . April 27, 1918 . . .*, *op. cit.*, p. 18.

⁷³ E. Root to E. M. House, August 16, 1918, Seymour, *op. cit.*, IV: pp. 43-47.

⁷⁴ A discussion between Root and his friend Chandler P. Anderson in November, 1916 is reported by Anderson in his diary as follows: "He said that we had had weak presidents and wrong-headed presidents, but never until Wilson had we had an unscrupulous and dishonest president. . . ." Chandler P. Anderson Diary, November 6, 1916, Chandler P. Anderson Papers, Library of Congress.

⁷⁵ E. Root to Henry L. Stimson, October 26, 1918, Henry L. Stimson Papers, Yale University.

⁷⁶ Chandler P. Anderson Diary, November 18, 1918, Anderson Papers.

criticized the president.⁷⁷ To one correspondent, Root admitted "[w]hether the kind of league that I am in favor of is the kind that you have in mind or that the President has in mind I do not know."⁷⁸

At a meeting of Endowment trustees on December 16, 1918, Straus pressed Root to suggest that the trustees use their influence to perfect "machinery for the future regulation of the world."⁷⁹ Root refused, saying that "in ignorance of what the President's views are upon the vital subjects," it would be unwise for Americans to work for specific solutions. Nonetheless, he restated the need for new international legal theory and institutions and indicated how difficult it was "to formulate any phrase . . . which should be adequate to determine the precise thing which countries are now binding themselves to do in some future generation." He was pleased that James Brown Scott and a portion of his staff—"the most important part of the Division of International Law"—had gone to Paris to assist the American peace conference delegation.⁸⁰

* * * * *

Second only to Root in the Carnegie Endowment was President Nicholas Murray Butler of Columbia University. Butler in 1907 had formed the American Association for International Conciliation, a branch of the French *Association pour la Conciliation Internationale*, with financial assistance from Andrew Carnegie, and in 1908 had approached Carnegie on the

establishment of a "Carnegie International Institute." His advice was influential in shaping the Endowment and as administrator of its Division of Intercourse and Education he controlled much of its resources. Before the war Butler often presided over the Lake Mohonk Conference on International Arbitration, and was widely known for his advice that Americans cultivate an internationalist perspective.⁸¹ He traveled widely, entertained splendidly, and sustained an elaborate correspondence with foreign dignitaries.

Self-assured and pompous, Butler was called behind his back "Nicholas Miraculous." Like Root, he was a Republican politician of conservative bent. In 1912 he received electoral college votes for vice president when Taft's running mate, Vice President James S. Sherman, died before the votes were cast. Although largely a behind-the-scenes party operative, Butler was an effective public speaker greatly in demand by civic, professional, and commercial organizations. Before these groups he staunchly defended individualism and free enterprise, called for the modernization and rationalization of American business, and promoted "constructive patriotism." Butler abhorred socialism, the growth of central government, and many of the policies of his erstwhile colleague, Dr. Woodrow Wilson.

Before 1914 Butler occasionally alluded to an international police, perhaps to court favor with Carnegie. At Lake Mohonk in 1907 he observed that "[s]o long as human nature remains human, the several nations will each require their systems of police, and the world at large will require an international police; but this international police, while constituted of armies and navies, will, when it comes, be constituted in a way and from a point of view quite different from armies and navies maintained for offensive war."⁸² In 1908, in appealing to Carnegie to establish a peace endowment, he suggested that such an agency might promote the

. . . peaceful development of civilization by aiding and developing, supporting and directing the forces needful to bring about the prevention of war, the perfection of means for the establishment of arbitral justice between nations, and the development of a world congress or parliament, a high international court and an international police, and to take such steps and promote such undertakings as shall bring about the substitution of law and justice for war as a means of settling international disputes and difficulties.⁸³

⁸¹ N. M. Butler, "The International Mind," *Report of the Eighteenth Annual Lake Mohonk Conference on International Arbitration, May 15th, 16th and 17th 1912* ([N. Y.]: Lake Mohonk Conference on International Arbitration, 1912), pp. 14-21.

⁸² "Opening Address of Dr. Nicholas Murray Butler, Chairman," *Report of the Thirteenth Annual Lake Mohonk Conference on International Arbitration, 1907* (n.p.: 1907), p. 15.

⁸³ *CYB, 1911, op. cit.*, pp. 178-179.

⁷⁷ See Jessup, *op. cit.* II: pp. 379-383, and Allen Nevins, *Henry White: Thirty Years of American Diplomacy* (N. Y.: Harper & Brothers Publishers, 1930), pp. 351-352. Root wrote to Victor Lawson of the *Chicago Daily News* that he did not want to embarrass or interfere with the American peace commission while they were abroad "unless I think they are attempting something which seems to me to be really injurious." However, he did not know what the president was proposing to do at the peace conference. E. Root to V. Lawson, December 26, 1918, Root Papers.

⁷⁸ Carbon E. Root to L. Ward Bannister, December 9, 1918, Root Papers.

⁷⁹ Minutes of the Board of Trustees, December 16, 1918, CEIP.

⁸⁰ Late in December, 1918, Root reiterated these views to Henry L. Stimson. He favored a change in international law, a court, a commission of inquiry or investigation for non-justiciable disputes "with power to investigate the facts and to declare whether the claim that it was a non-justiciable question was a reasonable and just exercise of national policy," and regular machinery for diplomatic conference. He did not believe that the court's decisions should be enforceable on the basis of an obligation of league members to go to war or to use economic sanctions. Rather, he favored a general agreement to use appropriate means to enforce court decisions, leaving it to league members to decide means case by case. However, when automatic economic sanctions were written into the first draft of the League of Nations Covenant, Root on March 1, 1919, did not object to the provision. "Memorandum on talk with E. R. on Sunday Morning, December 22, 1918, and notes made the same day." Stimson Papers. This memorandum has addenda dated December 29, 1918 and March 1, 1919.

In the main, however, he echoed Root's view that "the public opinion of the world is the true international executive" and that "[w]hat the world's public opinion demands . . . it will get. What the world's public opinion is determined to enforce, will be enforced."⁸⁴

Butler regarded the First World War as a catastrophe, but, at first, he believed that German starvation would shortly end the fighting.⁸⁵ Early in the war, unlike most of the trustees, he urged neutral intervention and opposed the movement for American military preparedness. "Under our leadership," he declared, "Italy, Holland, Switzerland, Argentina, Brazil, and Chili [*sic*] should quickly, earnestly and insistently proffer mediation under the terms of the Hague conventions, to which all belligerents are signatories and in accordance with the dictates of humanity and of common sense."⁸⁶

The war had put an end to the contention, "always stupid and often insincere," invented by the "war-traders," that huge armaments are an insurance against actual strife and an aid in maintaining peace.⁸⁷ Butler hoped for the spread of democratic influences and popular control of governments and the growth of "economic and intellectual interdependence." He was sure that civilized people would never again permit a competitive arms race to occur unless Europe would "produce another generation of public men as self-centered and of as narrow a vision as those who have generally been in control of public policy there for forty years past." The war would hasten the day when interdependence would assert itself "against national chauvinism and the preposterous tyranny of the militarists." Its end would usher in a more moral and peaceful age, during which there might yet be achieved "our great policies of peace, of freedom from

entangling alliances, of a world concert instead of a continental balance of power, of an international judiciary, and an international police, of international cooperation instead of international suspicion. . . ." ⁸⁸ This hopefulness varied little from what Butler had said before the war.

In October, 1914, Butler predicted the creation of a United States of Europe, modeled upon the United States of America, as a transition leading to a world federation with "an international executive and an international police, both devised for the especial purpose of enforcing the decisions of the international court." The beginnings of this process were to be seen in the use of arbitral awards as precedents and in the evolution from these precedents of an international code. Already special arbitral courts had developed into the Hague court, and this body, in turn, would develop into a supreme judicial tribunal.⁸⁹

In spite of his own statements regarding international enforcement, Butler, like most of his Endowment colleagues, remained distant from the League to Enforce Peace.⁹⁰ The League's program, he suggested, presented many difficulties "legal and moral, national and international." Although he had always assumed that an element of force would be present and would remain necessary "even though it might, as the years go by, become increasingly subordinate," the League required further consideration.⁹¹ Butler, however, continued to speak about sanctions in a manner similar to Root's. The American people, he asserted, have come to understand that those principles "in the law that governs individuals must be extended to cover the law which deals with nations." A wrong committed against a nation "is not only a legal injury to the nation against which the wrong is directed, but a breach of the peace and good order of the community of nations and therefore a legal injury to every nation." The time had come to extend "by appropriate and enforceable sanctions" the principles of the criminal law to the relations among nations.⁹²

During 1916 Butler was deeply enmeshed in national politics, including efforts to obtain the Re-

⁸⁴ "Opening Address of Dr. Nicholas Murray Butler, Chairman," *Report of the Fifteenth Annual Lake Mohonk Conference on International Arbitration May 19th, 20th, and 21st, 1909* (n.p.; 1909), pp. 20-21. However, in 1910 at Lake Mohonk Butler observed, in boasting of American success, "[s]uppose now that during the next few decades it might be given to us to lead the way in demonstrating to the world that great sovereign nations, like federated states, may live and grow and do business together in harmony and unity, without strife or armed conflict, through the habit of submitting to judicial determination all questions of difference as they may arise, the judicial decree when made to be supported and enforced—after the fashion in which judicial decrees are everywhere supported and enforced—by intelligent public opinion and by an international and neutral police." "Opening Address of President Nicholas Murray Butler," *Report of the Sixteenth Annual Lake Mohonk Conference on International Arbitration, May 18th, 19th, and 20th, 1910* (n.p., Lake Mohonk Conference on International Arbitration, 1910), p. 23.

⁸⁵ J. H. Choate to Mrs. J. H. Choate, November 28, 1914, Martin, *op. cit.*, II: p. 368.

⁸⁶ *Brooklyn Eagle*, September 7, 1914.

⁸⁷ N. M. Butler, "The Great War and Its Lessons," *The Educational Review*, XLVIII (November, 1914): pp. 368-374.

⁸⁸ *Ibid.*, pp. 373-374.

⁸⁹ Butler's interview with Edward Marshall, *New York Times*, October 18, 1914.

⁹⁰ Carbon N. M. Butler to H. Holt, March 2, 1915, Nicholas Murray Butler Papers, Columbia University; carbon N. M. Butler to D. P. Kingsley, August 14, 1915; carbon N. M. Butler to W. H. Short, August 18, 1915; and carbon H. S. Haskell (?) to W. H. Short, May 6, 1916, CEIP.

⁹¹ Carbon N. M. Butler to T. Marburg, August 10, 1915, CEIP.

⁹² N. M. Butler, "Report of Acting Director of the Division of Intercourse and Education," *CYB 1916, op. cit.*, p. 50. The report is dated March 22, 1916. The *Denver Times*, March 11, 1916, credited Butler with believing in the need for an international court with a police power to compel observance of its decisions.

publican presidential nomination for Root and the New York Republican senatorial nomination for Robert Bacon.⁹³ Attending a conference in New York City in mid-May to draft proposals for the party's platform, Butler submitted a text. In it he asserted that the American people would cooperate "in the upbuilding and advancement of international institutions and international law," and looked forward to the time when, after the war, it would be possible "to advance the international organization of the world" and "strengthen those institutions which will be an increasing safeguard and protection against the renewal of wickedness and waste of international war."⁹⁴ Less than two weeks later, both President Wilson and Republican senator Henry Cabot Lodge endorsed a postwar organization.⁹⁵ In June the Democratic convention approved an association of nations, while at the Republican convention the platform committee substituted for a revision of Butler's obscure language an endorsement of an international judicial tribunal.⁹⁶ In the summer and fall of 1916 Wilson spoke of the desirability of a postwar peace league and, although he remained vague, it was widely assumed that the president had endorsed the League to Enforce Peace.

During this period, Butler and Scott were increasing their control over the American Peace Society. Then in October, Dutton became general secretary of the World's Court League and substituted for his predecessor's advocacy of an international police a program based on Scott's ideas. Subsequently, Dutton

wrested control of the New York Peace Society from the sanctionists.⁹⁷

Even before the November election, it was widely rumored that the president would, if reelected, make a new effort to end the European war. In October Butler, perhaps anticipating such a move, began to prepare a series of letters that appeared in late November and December in the *New York Times* over the pseudonym "Cosmos." These letters, which the Endowment reprinted in various languages as *The Basis of Durable Peace*, laid out Butler's conception of a peace settlement.⁹⁸

Asserting that the belligerents had set the stage for an early end to the war,⁹⁹ "Cosmos" proposed a peace based on free trade, "the freedom of the seas," national autonomy for the Poles, South Slavs, and Irish, the indemnification of Belgium by Germany and of Serbia by Austria-Hungary, the restoration of France, including the transfer to her of Alsace-Lorraine, the division of Turkey so as to provide Russia with the Dardanelles, the adjoining shores and the Bosphorus, and the voluntary uprooting by the Germans of Prussian militarism.

These terms would assure British, French, Russian, and German security, resolve the Eastern Question, and lay the ground for enduring peace. They were to be "sanctioned and protected by international law and supported by a guarantee so definite and so powerful that it cannot and will not be lightly attacked or shaken in the future by any Power."¹⁰⁰ Moreover, "Cosmos" suggested an international court modeled upon the U. S. Supreme Court that would develop precedents of an "international common law" and rely upon an instructed and enlightened public opinion. There also would be commissions of inquiry, periodic international assemblies, and the adoption, insofar as possible, of the Declaration of the Rights and Duties of Nations which had been prepared by Scott.¹⁰¹

"Cosmos" did not specifically mention the League to Enforce Peace, but he had doubts about a coercive sanction. There were difficulties in identifying an aggressor; nations would not automatically fulfill their obligations to invoke sanctions; and an aggressor would not necessarily be faced with an overwhelmingly

⁹³ N. M. Butler, *Across the Busy Years*, op. cit. I: pp. 246-276, 345-350. See also "Memorandum Regarding the Republican National Convention of 1916," Butler Papers; *New York Times*, February 22, 1916.

⁹⁴ "Proposals for Republican Platform of 1916," Butler Papers.

⁹⁵ *Enforced Peace, Proceedings of the First Annual National Assemblage of the League to Enforce Peace, Washington, May 26-27, 1916* . . . (N. Y.: League to Enforce Peace, n.d.), pp. 159-167.

⁹⁶ "Proposals for National Platform, Revised," Butler Papers. Butler blamed Lodge for the actual platform. Copy N. M. Butler to Lord Bryce, August 2, 1916, Butler Papers. Butler labeled the G.O.P. platform the poorest it had ever had. "It would have been perfectly easy to secure a strong plank in the Republican platform favoring our co-operation in an international movement to preserve the World's Peace (without mentioning a league to enforce peace) but unfortunately there was no one on hand to look after the matter." G. W. Eads, in "Bartholdt Wrote Two Planks for GOP," *St. Louis Post Dispatch*, June 9, 1916, credits the German-American congressman, Richard Bartholdt, a veteran of the peace movement, with offering the text of the plank that was adopted by the Republican platform committee. The text read "We believe in the pacific settlement of international disputes and favor the establishment of a world court for that purpose." The Democratic and Republican platforms can be found in Donald B. Johnson and Kirk H. Porter, eds., *National Party Platforms 1840-1972* (Urbana: University of Illinois Press, [1973]), pp. 194-200, 204-207.

⁹⁷ See above, footnote 15.

⁹⁸ (N. Y.: Charles Scribner's Sons, 1917); *New York Times*, February 28, and June 17, 1917. See also carbon N. M. Butler to H. S. Haskell, March 12, 1917, Butler Papers.

⁹⁹ Butler in statements under his own name also said this. *New York Times*, December 15, 1916. Strangely, as late as March 31, 1917, Butler wrote: "It is probable that the greatest war in all history is approaching its end. At this moment no one can predict when or how this end will come but there are plain signs to indicate that a crisis has been reached beyond which human power and human resources cannot long hold out." *CYB, 1917*, op. cit., p. 82.

¹⁰⁰ *Cosmos, The Basis of Durable Peace*, op. cit., p. 63.

¹⁰¹ *Ibid.*, pp. 77 ff.

deterrent force. A sanction for law was sound in theory, but in practice "would require that every war of whatever character should become in effect a world war." Such a scheme raised constitutional problems for the United States. It would deprive the Congress of power to declare war and might obligate Americans to fight in circumstances about which they "know little or nothing and on account of which they might well regard going to war as incredible." Since they would not likely honor such a commitment, it should not be made.¹⁰² Nonetheless, "Cosmos" thought that after the war the United States would be obliged to interpret its traditional aloofness to mean that while there is "one international law and while there may be one international order, in the declaration and establishment of which the United States participates, yet there are two separate and distinct areas of jurisdiction for the enforcement of international law and for the administration of international order."¹⁰³ One jurisdiction would be Europe and parts of Asia and Africa immediately dependent upon it; the other would be the Americas.¹⁰⁴

While the United States in theory might assume responsibilities in all parts of the world, "Cosmos" maintained that "any consistent and persistent co-operation of this sort was probably out of the question, at least for the present and for some time to come." The habit of thought of the American people required that the Monroe Doctrine be honored. The proclamation of rules of international intercourse would be universal; their administration would be regional "in friendly concert" with the other American republics. "Cosmos" thus compromised isolationism and sanctionism, and attracted wide attention.¹⁰⁵

Butler's authorship of the "Cosmos" letters was

¹⁰² *Ibid.*, pp. 96–104.

¹⁰³ *Ibid.*, p. 95.

¹⁰⁴ Butler conjectured about the desirability of establishing "a third administrative area for the carrying out of international law, with the chief responsibility in the hands of Japan, that nation, operating under a sort of Asiatic Monroe Doctrine," *ibid.*, p. 117. William Jennings Bryan in March, 1916, had anticipated Butler. Speaking before the Economic Club of Washington, Bryan had argued: "All of the nations could join in the formation of a court and thus bring their united wisdom to bear upon an international dispute, leaving the enforcement of the findings to the group to which the nations belong, the American nations enforcing the decisions among themselves, if a majority of them approve of it, the European group doing the same under the same circumstances, and the Oriental group acting in like manner, if the Orientals are in a group by themselves." W. J. Bryan, "What Definite Steps Can the United States Take to Insure Permanent Peace?" *The National Economic League Quarterly* I, No. 4 (February, 1916): p. 46. Butler's colleague, Henry S. Pritchett, in April, 1915, had argued for two leagues—one of American and another of European states. Latane, ed., *op. cit.* II: p. 715.

¹⁰⁵ *Ibid.*, pp. 106–109. *The New York Times Index* for 1916 contains thirty entries, in addition to the letters themselves, under the heading "Cosmos."

hidden.¹⁰⁶ However, about the time of their appearance he publicly embraced the World's Court League.¹⁰⁷ When in January, 1917, he was told that Dutton's organization was attempting to merge with the League to Enforce Peace, he professed not to see how that would be possible "because the only point as to which the two organizations differ is one as to which no compromise is possible." Not one person in ten who had approved of the sanctionists' league had grasped the meaning of its proposals. Until it abandoned its fundamental principle, Butler declared, "there is nothing for persons like myself to do but to oppose it."¹⁰⁸

Butler viewed the German peace overture of December 12, 1916, as opening the way "to a calm, statesmanlike and frank discussion of the terms on which a durable peace can be established," but he deprecated talk about peace "at the present time." He did not want to help force the Allies into an inconclusive settlement, although he believed it "not unlikely that within the next six months time may come for something more concrete and more definite."¹⁰⁹

In February, 1917, following Germany's declaration of unlimited submarine warfare, Butler urged upon Root the adoption of a resolution by the executive committee indicating "that we have no complicity with and give no support to the present very active and very noxious anti-preparedness movements."¹¹⁰ In March he welcomed the Russian Revolution, but counseled against the "collodial or jelly-like" internationalism of the socialists who denounce "all nationalistic and patriotic feeling whatsoever in order to exalt the super-national brotherhood of man and to lay stress upon a world-wide community without nationalities or national ambitions." Butler preferred an internationalism that would strengthen national and patriotic sentiments, so that "the whole international structure when complete would then depend upon and reflect the strength and beauty of each of the national elements." He was sure that the Endowment would "take active part in the work of international organization which must closely follow on the conclusion of the war."¹¹¹

¹⁰⁶ State Department officials were eager to know the identity of "Cosmos." Copy P. H. Patchin to J. H. Patchin, November 23, 1916. U. S. Department of State, Decimal File 1910–1929, RG 59, 763.72119/186a, National Archives. Oscar Straus guessed that Scott was "Cosmos." O. Straus to J. B. Scott, December 2, 1916, CEIP.

¹⁰⁷ *New York Times*, November 21, 1916.

¹⁰⁸ Carbon N. M. Butler to S. T. Dutton, January 29, 1917, CEIP.

¹⁰⁹ Carbon N. M. Butler to J. L. Slayden, December 12, 1916, and carbon N. M. Butler to H. Lammasch, December 13, 1916, CEIP.

¹¹⁰ Carbon N. M. Butler to E. Root, February 21, 1917, CEIP.

¹¹¹ N. M. Butler, "Report of Acting Director Division of

After April, 1917, Butler remained a leading partisan critic of the Administration. His speeches reflected and helped shape Republican tactics. Regarding the war's outcome, Butler remained optimistic. He deplored the "national self-absorption" that had kept the United States from playing an adequate part in world affairs. The war, he believed, was one of ideas, the first war when the tide of democracy was at full flood. Like Wilson, Butler thought the war would advance democracy and, thus, promote not only a new *international* order but also a new *intra-national* order. Political developments within the United States, Great Britain, and France, and the "stupendous revolution" in Russia, indicated that after the war "democracy will be more secure, more effective, more just and better established." Every reason existed to expect "a rapid and successful advance in carrying out some, at least, of the projects of those philosophers, statesmen, and seers, who for 300 years have been working" for an international association "not to enforce peace but to secure peace."¹¹²

Only after Woodrow Wilson's January 8, 1918, "Fourteen Points" address did Butler further develop his ideas. Before the Commercial Club in St. Louis, on February 16 he identified the United States and its wartime partners as "a league to establish and enforce the rules of international law and conduct."¹¹³ He thought this alliance should be made a "permanent addition to the world's organization for order and for peace." The establishment of such a league would almost necessarily have to be accompanied by three conditions: (a) there be no separate political or military alliances among members of the league and, in time, the members should include the whole civilized world; (b) there be a speedy reduction in armaments both to reduce tax burdens and to turn the attention of nations from war; and (c) the "most favored nation" clause agreed upon among any members of the league be applied to all league members so as to reduce greatly or remove one of the strongest economic temptations to war.

In this respect, Butler anticipated by more than seven months central elements in Wilson's speech of September 27, 1918.¹¹⁴ Unlike the president, how-

ever, he proposed a wartime league, a judicial tribunal, and the enforcement, "when necessary, of the findings of this court" by "joint international action in accordance with a definite plan to be determined upon when the court is established." To make his point, Butler quoted former British Prime Minister Herbert Asquith as saying that an international tribunal should be supported "in case of need by the strength of all; that is, in the last resort by armed force." For the league to work, Butler believed that secret treaties—those not deposited in the archives of the league of nations—would have to be outlawed. Germany's defeat also would have to be total if renewal of the war was to be avoided.

Butler reiterated these ideas on a number of occasions.¹¹⁵ When asked to address a May, 1918 League to Enforce Peace convention devoted to the theme "Win the War for Permanent Peace," Butler agreed, but limited his remarks to calling for an Allied victory. The League's leaders misunderstood his appearance as evidence of softening opposition. Butler, though, repeated his objections and declined to serve as a vice president of the League.¹¹⁶

When in July, 1918, Butler came to believe that the Allies' victory was assured, he joined a chorus of demands that a league of nations be created at once. He embodied this idea in the New York State Republican Party platform which he helped draft in mid-July. The Republican plank consisted of the following language:

We favor the immediate creation by the United States and its allies of a league of nations to establish from time to time, to modify, and to enforce the rules of international law and conduct. The purpose of this league should be not to displace patriotism, devotion and loyalty to national ideals and traditions, but rather to give to them new opportunities for expression in co-operation with the other liberty loving nations of the world. To membership in this league any nation might be admitted that possesses a responsible government which will abide by those rules of law and equity and by those principles of international justice and morality which are accepted by civilized people.¹¹⁷

Shortly thereafter, in an article written for the *London Daily Chronicle*, and widely reprinted, Butler argued that no good reason remained for further

Intercourse and Education," March 31, 1917, *CYB, 1917*, *op. cit.*, pp. 53–82, esp. pp. 53–54, 82.

¹¹² Reports of Butler's speech before the Cincinnati Commercial Club, April 21, 1917, in the *Cincinnati Enquirer* and the *Cincinnati Commercial Tribune*, April 22, 1917; N. M. Butler, "The International Mind: How to Develop It," *Proceedings of the Academy of Political Science VII*, No. 3 (July, 1917): pp. 16–20.

¹¹³ *New York Times*, February 17, 1918.

¹¹⁴ Woodrow Wilson, "Fourth Liberty Loan," R. S. Baker and W. E. Dodd, eds., *The Public Papers of Woodrow Wilson, War and Peace, Presidential Messages, Addresses and Public Papers (1917–1924)* (2 vols., N. Y.: Harper and Brothers Publishers, [1927]) I: pp. 253–261.

¹¹⁵ See Butler's scrapbooks for 1918 in the Butler Papers.

¹¹⁶ Butler's speech appears in *League to Enforce Peace, Win the War for Permanent Peace, Addresses made at the National Convention of the League to Enforce Peace in the City of Philadelphia, May 16th and 17th, 1918, Convention Platform and Governors' Conference* (N. Y.: n.d.), pp. 223–237. Carbon N. M. Butler to W. H. Short, June 13, 1918, CEIP; W. H. Short to W. H. Taft, June 18, 1918, Taft Papers; and carbon A. L. Lowell to W. H. Short, June 19, 1918, Lowell Papers.

¹¹⁷ The platform was published in the *New York Times*, July 20, 1918. An annotated copy in the Butler Papers shows that Butler wrote the section on a league of nations, among others.

delay in establishing a league to "prepare systematically and scientifically" for handling the grave economic, social and political problems that the end of hostilities, the demobilization of armies, and new world conditions would produce.¹¹⁸ "The line of least resistance," he noted, ". . . is to lay stress upon the power and authority of a single international judicial authority, and to accustom the public opinion of the world to seek and to defer to the findings of such authority." International agreements among members would be, in effect, acts of international legislation. In due time, an international legislative body might be formed. It would be better, however, to allow such a body to evolve "rather than to attempt to bring it into existence as part of a logical and systematically worked-out plan." Meantime, Butler again strongly endorsed the Declaration of the Rights and Duties of Nations.

Through the summer and fall of 1918, Butler demanded a conclusive military victory and rejoiced when, in mid-September, Wilson rebuffed an Austrian peace overture.¹¹⁹ He expressed "heartiest commendation" for Wilson's views regarding the war aims of the Allies and the principles governing a peace league in the latter's September 27, 1918 speech.¹²⁰ These principles Butler had long had in mind and he had given them frequent public expression. "My only regret," he observed, "is that the President is not ready to see the league organized at once." It would be easier to create a league while the bonds of alliance were in force. "The welding power of the emotions which the war has generated among the Allied people is now at the service of a league," but "a different set of conditions may prevail when victory has been won and separate national interests begin to express themselves."

In October Butler criticized Wilson for beginning negotiations with the Germans and then denounced the president's appeal for the election of a Democratic congress.¹²¹ Throughout this period Butler championed national self-determination for various Central European peoples and spoke about international organization.¹²² On October 13 he proposed, in a letter to the *New York Times*, that Germany's colonies not be returned to her, but that along with other undeveloped territories they be placed under a league of nations to be administered solely in the interest of their inhabitants. The league would improve "their physical, mental, moral, economic and

political conditions so that sooner or later they will become self-governing peoples."¹²³

Following the armistice on November 11 Central Europe was beset with revolutionary disorders. Disturbed by these events, Butler labeled the delay in creating a league of nations as "little short of madness."¹²⁴ Rather than devise an elaborate league constitution, he urged the Allies to approve a statement embodying a few definite purposes, which would be, in effect, those for which they had been fighting. The wartime neutrals should be invited to join and then the league should examine the boundaries and economic independence of the new states and police them until they acquired stable governments. Only then should the league admit Germany and Bulgaria on harsh terms and consider what to do with the remnants of the Hapsburg Empire. Under no circumstances would Butler admit Turkey to the league.

With the war over, a Republican Congress assured following the mid-term November election, and President Wilson aboard the *S. S. George Washington* heading for Europe, Butler on December 6, 1918 in a "careful interview" laid bare some of the obscurities in the president's view of the peace.¹²⁵ Possibly as part of a concerted Republican plan to embarrass Wilson,¹²⁶ Butler examined three slogans employed by the president in his public statements "but as to the precise meaning of which American opinion is wholly in the dark, and of which there is no clear comprehension in Europe." These phrases were "national self-determination," a "league of nations," and "the freedom of the seas," about all of which Wilson's remarks had been "almost universally and perhaps purposely couched in vague and general

¹¹⁸ *New York Times*, October 20, 1918.

¹¹⁹ *New York Times*, November 18, 1918.

¹²⁰ *The Observer* (London), December 8, 1918, and the *New York Times*, December 11, 1918.

¹²¹ "Memorandum prepared by N. M. Butler in December, 1918, following conversation in Washington with Senators Harding, Hale and Kellogg," typed ms, Butler Papers. Wilson "is really a dangerous man to have in the American Presidency, because conditions have combined to give him a tremendous hold over the imagination of the masses of the people in this and other lands, while his hold upon fundamental principle is so insecure that he may at any time use that hold to carry us well along the path toward Socialism and even Bolshevism. . . . It is W. W.'s tendency to run away when opposed or discredited. He plans to go to Europe for the reason that he has lost prestige at home and hopes to be able to regain it on the other side of the Atlantic. He will undoubtedly receive, and justly, a tremendous reception as the representative of the American people; but this reception should not blind Americans or anyone else to the danger which lurks in the possibility of his national and international policies (so far as he has fixed policies) being adopted. So far as the United States is concerned his power is at an end. A dying Congress never does anything, and after March 4 the Republican majorities will see to it that well-tested and sober American policies are followed."

¹¹⁸ N. M. Butler, "A Governed World," *London Daily Chronicle*, July 27, 1918.

¹¹⁹ *New York Times*, September 18, 1918.

¹²⁰ *New York Times*, September 29, 1918.

¹²¹ *New York Times*, October 7, 14, and 26, 1918.

¹²² See, for example, *New York Times*, November 17 and 18, 1918; *Pittsburgh Post*, November 18, 1918; and *Milwaukee Sentinel*, November 18, 1918.

terms." By way of contrast, Butler noted that the Republican spokesman on foreign affairs, Senator Henry Cabot Lodge, had spoken plainly, "but, of course, not for the Administration." Later denying that he had intended to attack the president,¹²⁷ Butler proposed both a territorial settlement and an international association. He endorsed independence for the Czechs, Poles, and Yugoslavs, the return of Alsace-Lorraine to France and of Northern Schleswig to Denmark, and the assignment of the Trentino to Italy and of portions of Macedonia, Thrace, and Asia Minor to Greece. However, although he believed that Americans favored home rule for Ireland, Butler opposed disrupting, or even weakening, the British Empire which, apart from Ireland, had produced new, free, and self-governing peoples.

Butler had in late 1916 under the cover of "Cosmos" endorsed "the freedom of the seas."¹²⁸ Now he found the American people mystified by Wilson's use of the term. If it meant access to navigable waters for landlocked peoples or the underprivileged use of international straits, waterways, and canals, well and good. However, in wartime the strongest navy had always commanded the seas. Had it not been for the British navy in 1914, German militarism would have triumphed within a year. Butler was certain that the world realized this and would not support any proposal which would in essence diminish the British navy, although it might do so in form.

Condemning the "false internationalism" espoused by radicals, Butler proposed a league of nations that would rest upon a union of strong, self-respecting nations. A substantial majority of Americans would approve "a well-considered and thoroughly practical project." Now, however, Butler discounted any league based on a constitution analogous to that of the United States. Public opinion was not ready for such an arrangement. The necessary conditions—a common language and culture—present when the United States was founded did not exist in the larger con-

text. The real analogy was to be found in the principle of federation "with its accompanying characteristics of legal and economic cooperation." Americans would favor this principle were it guided by a policy of "lofty patriotism, honest international service, and sincere democratic feeling." Wilson, though, had not attempted to explain how a league of nations should be formed.

Butler's views were clear. He noted that the Allies had collaborated in unifying their military forces. They had pooled their shipping, food, munitions, and credit. Their next step would be to declare themselves a league of nations for the purposes for which they had been fighting, and with which their peoples were familiar. This league would define "standards of international right and justice" and protect "smaller and less numerous peoples" from attack or domination. Neither a constitution nor an elaborate machinery would be needed. The Allies, neutrals subscribing to their principles, and newly independent peoples whose geographical and political claims were just would form the league. Germany and Austria-Hungary should also be admitted, but only after they "washed from their hands the blood of Belgians and Serbs . . . repented for such crimes as the Lusitania and Sussex and . . . exorcised the evil spirits that have possessed them." Then the resumption of The Hague system and the building of an international judicial and economic structure should follow. Privately, however, in a letter to Scott, who was heading for service with the American Commission to Negotiate the Peace, Butler advised against a league organized "upon an economic rather than upon a juridical basis."¹²⁹

¹²⁷ *New York American*, December 10, 1918, and the *New York Times*, December 11, 1918.

¹²⁸ See above p. 358. Also, carbon N. M. Butler to C. R. Miller, February 26, 1917, CEIP. Butler wonders "whether the enormous and continued destruction of merchantmen by submarines will not induce even the British Admiralty and the British Tories to be more openminded to the American view when the war comes to an end." In April, 1918, Butler asserted, regarding commerce on the sea, "[t]he real difficulty with most public debate . . . is that it is more or less directed against the naval power of England which has in itself been a great bulwark of advancing civilization. It has long been my belief that the burden which Great Britain has so long borne might well be borne by an organized society of free peoples, but to bring this about will involve a great many difficulties and delicate negotiations including particularly such as would bear upon the internationalization of canals, straits and other water ways." N. M. Butler to A. Shaw, April 15, 1918, Albert Shaw Papers, New York Public Library.

¹²⁹ Carbon N. M. Butler to J. B. Scott, December 3, 1918, Butler Papers. In February, 1919 Butler agreed with Henry L. Stimson "that it would be simple madness to allow the Republican Party to take an attitude of flat opposition to what is called a League of Nations." He thought the Republicans should claim credit for laying the foundations for the idea during the McKinley, Roosevelt, and Taft administrations. "In brief," he wrote, "my notion is that the United States should readily agree with the other nations of the world on a general code of international law and practice, which code should then be supervised and enforced in three administrative areas, namely, (1) Europe, Africa and the nearer parts of Asia; (2) the American continent; (3) the Orient proper. The adoption of such a plan would keep Europe from interfering with American problems, and would leave the Monroe Doctrine in tact, while it would relieve us of the necessity of interfering in European, African, and Near Asian questions. It would establish a Monroe Doctrine for the Orient, where of course Japan would occupy the primary position. I do not see why she should not be encouraged to do so, if she accepts and supports a common code of international law and practice, and is so restrained from exploiting China and Siam, just as we refrain from exploiting Central and South America. I think this idea has in it the possibility of helpfulness at the present juncture." Butler observed that these ideas had been developed by "Cosmos" in 1916 and that he had endorsed them on occasion

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Closely allied with Root and Butler was Dr. James Brown Scott, an international law professor at Columbia University when in 1906 Root appointed him solicitor in the Department of State. Scott, who was to become Root's *alter ego*, in 1907 drafted the latter's instructions to the American delegates to the Second Hague Peace Conference and then devised a project for a Court of Arbitral Justice that the conference approved in principle. Scott remained as solicitor under Robert Bacon and Philander C. Knox, Taft's secretary of state. In these years Scott continued to work for an international tribunal and a third Hague conference.¹³⁰

At Root's suggestion, Carnegie in December, 1910, appointed Scott a trustee of his endowment,¹³¹ and early in 1911 Scott resigned from the Department of State to assume responsibility for its day-to-day operations. Scott was an organizer and publicist *par excellence*. His Carnegie office was the lynch pin of his already attained position among international lawyers. Ever since helping to found the American Society of International Law in 1906 he had been its secretary and editor-in-chief of its important organ, the *American Journal of International Law*. In 1910 before the Endowment was born he had co-founded the American Society for Judicial Settlement of International Disputes, which he would serve variously as president and secretary, and had been appointed a director of the Boston-based World Peace Foundation. That year he also assisted Root as an American counsel in the North Atlantic Coast Fisheries Arbitration. In 1912 Scott helped create the American Institute of International Law, an inter-American association of national societies of international law, of which he became president, with Root as honorary president. In 1914 he was the driving force in obtaining an Endowment subsidy to establish the Academy of International Law at The Hague.

Following Woodrow Wilson's inauguration in March, 1913, Scott, a close friend of the then newly appointed Department of State counselor, Robert Lansing, forged a working relationship with the pacifist secretary of state, William Jennings Bryan. He supported Bryan's "Treaties for the Advancement of Peace," which provided for the conciliation of disputes, and with Root and others lobbied the Administration in behalf of a tribunal and new Hague conference. On the eve of the First World War, after strenuous efforts by the Endowment's trustees, Scott was appointed as

in various wartime speeches. N. M. Butler to Henry L. Stimson, February 20, 1919, Stimson Papers. See above p. 362 and footnote 104. "Cosmos" in 1916 had stressed two rather than three regions.

¹³⁰ Nurnberger, *op. cit.*, chapter eight; Davis, *op. cit.*, pp. 335ff. explores the movement for a third Hague conference.

¹³¹ Lutzker, *op. cit.*, p. 151.

the United States representative on a proposed international commission to prepare for a third Hague conference.¹³²

While the war did not destroy Scott's optimism, it did catapult him back into government service. On August 11, 1914, Bryan appointed him a special adviser to the Department of State attached to Lansing's office. Almost immediately Lansing appointed him chairman of a State-War and Navy Joint Neutrality Board, which Scott had proposed be established.¹³³ As chairman of this board, he drafted over 150 legal memoranda bearing upon American neutrality and maintained close contact with senior American officials.

One of the nation's leading international law experts, Scott was also one of its leading advocates of international legal reform. Like Root, he was a gradualist, a legalist, and an ethnocentric nationalist who believed that American values and institutions provided the model for world order. While Root, a crafty politician, admitted a coercive sanction in principle, Scott, a legal technician and ideologue, denied that one would be needed.

For Scott the problem of war could be resolved by providing an assured basis for attaining international justice. In municipal law there were a few basic principles necessary for insuring justice. These principles were the protection of life, liberty, and property. They could be translated into international legal principles—the rights of states to exist, to be independent and grow and develop without external interference, and to have jurisdiction within their own boundaries. Scott added the legal right to the equality of states. To interpret these principles would require an international court. Progress toward creating such a court had been made before the war. The difficulties had been exaggerated.

Scott admitted that commercial pressure, nonintercourse, and other methods might be devised to compel submission to this court. He believed, however, that, just as public opinion had bulwarked the supreme court in the American political system, so it would insure the success of an international tribunal. Once a court existed states would comply with its decisions. They had complied with arbitral awards in the past, and the decisions of the U. S. Supreme Court had been "practically self-executing." What had worked for the United States would work also in the international arena, given the proper education of public

¹³² W. J. Bryan to J. B. Scott, July 31, 1914, Scott Papers. Scott credited Root with his appointment. J. B. Scott to E. Root, July 31, 1914, Root Papers.

¹³³ W. J. Bryan to J. B. Scott, August 11, 1914, and R. Lansing to J. B. Scott, August 12, 1914, Scott Papers; J. B. Scott, "The Neutrality Board," *American Journal of International Law* 13, No. 2 (April, 1919): pp. 308-310; and Alice Morrissey McDiarmid, "The Neutrality Board and Armed Merchantmen, 1914-1917," *American Journal of International Law* 69, No. 2 (April, 1975): pp. 374-381.

opinion. Indeed, the war had been so horrible that states would at its end be willing to resolve justiciable disputes by judicial means. "International Law is to be the law of the future," Scott declared. "[T]he knell of the old order was sounded on August 1st, . . . and we are today-unconsciously it may be—standing on the threshold of a new and, may I say, beneficent [era]." ¹³⁴

While publicly discreet, Scott privately condemned Germany's aggression, hoped for an Allied victory, and supported American military preparedness.¹³⁵ Although he was employed by the Department of State, Scott continued his public advocacy of a third Hague peace conference and an international court. When the League to Enforce Peace came into existence, he rapidly emerged as the sharpest and most persistent public critic of "peace by compulsion."

Addressing an audience in Cleveland in May, 1915, while attending a World's Court Congress, Scott declared that "[t]he great campaign in which we were engaged is nothing more or less than a campaign . . . in which physical force, as such, finds no place." The task was to educate and enlighten public opinion linked to democracy and, of course, to perfect the international legal order.¹³⁶ "I think," he later told Bryce, "we must change the standard of thought, if we would change the standard of conduct, and that . . . problem is not one of the balance of power nor of Leagues to Enforce Peace, but one of education." ¹³⁷

Scott also criticized specific features of the League to Enforce Peace program. He found it inconsistent in desiring to enforce an international due process, but not the findings of an international court or council. "If public opinion can be depended upon to execute the award," he asked, "cannot public opinion be depended upon to force nations into court if only the controversy be made public and public opinion be given a chance?" ¹³⁸ Moreover, Scott noted that

¹³⁴ J. B. Scott interview with Edward Marshall, for release not earlier than August 29, 1915, and carbon J. B. Scott to W. Kebedgy, May 2, 1915, Scott Papers.

¹³⁵ Carbon J. B. Scott to J. H. Choate, August 24, 1915, and J. B. Scott to C. W. Young, February 11, 1916, Scott Papers.

¹³⁶ J. B. Scott, "Public Opinion Versus Force," *Advocate of Peace* LXXVII, No. 9 (October, 1915): pp. 217-218; Latane, ed., *op. cit.* 1: p. 23; J. B. Scott to A. Shaw, June 16 and July 7, 1915, Shaw Papers.

¹³⁷ Carbon J. B. Scott to Lord Bryce, February 28, 1917, CEIP. On April 27, 1917, at a meeting of the American Society of International Law, Scott observed: "My method and my panacea is education, and the raising of men, women, and nations to the highest standard by bettering their spiritual nature, and not by forcing them into leagues in order to redress wrongs." *Proceedings of the American Society of International Law at its Eleventh Annual Meeting held at Washington, D. C., April 26 and 27, 1917* (N. Y.: Oxford University Press, 1917), p. 123.

¹³⁸ J. B. Scott, "Peace By Compulsion," *The World Court* 1, No. 2 (September, 1915): pp. 97-98.

the League proposed to use force against other countries, but not "force by other parties to compel the United States to settle a dispute peaceably which our people might be unwilling to arbitrate or submit to a Council of Conciliation." Its program might actually require the United States to employ force when it otherwise would be unwilling to do so. The most Scott would concede was that if an international court were to be afforded a sanction, it should begin with the "slightest known to and accepted by reasonable persons."

At the end of 1915, while serving as a U. S. representative to the Second Pan American Scientific Congress in Washington, D. C., Scott developed a theme that had been central to his thought. He presented to, and won the approval of, the congress and a meeting of the American Institute of International Law held at the congress, for a "Declaration of the Rights and Duties of Nations" which he had drafted.¹³⁹

In this declaration, Scott identified the nation, i.e., the state, as "a moral and juristic person, the creature of law, and subordinate to law as is the natural person in political society." Paraphrasing the American Declaration of Independence, he enumerated "fundamental rights of national jurisprudence" to which states were entitled. These were the rights of states to exist and to protect and conserve their existence; to independence in the sense of freedom to pursue their own ends and to develop without interference or control from other states; to equality with other states; to exclusive jurisdiction over territory within defined boundaries; and to respect for their rights under international law. Correlatively, each state was obliged to avoid unlawful acts or interference with or violation of the rights of other states and to protect the rights of other states. There was some private criticism of the Declaration, but Scott, Root, and Butler gave it wide publicity and claimed that it had universal validity.¹⁴⁰

In 1916 the sanctionists were gaining ground despite Scott's efforts. Writing to a friend that February, Scott deplored the circumstance in which those sharing his views appeared to be "but a voice crying in the wilderness." ¹⁴¹ They were at the mercy, he said, of persons promoting plans "which experience has either rejected or which would be condemned by a better knowledge of international relations and the principles which underlie them." The sanctionists were substituting for a "genuine international court and genuine international sanctions an ex parte tribunal and armed alliances." Their ideas amounted to

¹³⁹ The declaration is printed in *Advocate of Peace* LXXVIII, No. 3 (March, 1916): p. 63.

¹⁴⁰ The declaration was widely publicized, but despite Scott's intention that the Endowment's trustees approve it, apparently they never did. Carbon J. B. Scott to George W. Perkins, April 16, 1917, CEIP.

¹⁴¹ J. B. Scott to W. I. Hull, February 11, 1916, Hull Papers.

no more than "a Holy Alliance to use force, and to cut throats if need be."

The success of the League to Enforce Peace displeased Scott, but so did President Wilson's proposed Pan American treaty to guarantee the political independence and territorial integrity of American states and the tone of the World's Court League, which had evolved out of the congress in Cleveland. The former he deemed as "nothing more nor less than a Holy Alliance to maintain republican as distinguished from monarchical form of government." The world court society he regarded as threatening the prestige of the movement for an international tribunal. The "misguided zeal" and "excesses" of its leaders were to blame. The judicial settlement society of 1910 origin was doing an important job in exploring the technical aspects of a court; the League, by contrast, was engaged in superfluous agitation, for the American people and government already were "squarely committed" to the basic principle.

Consoled that "in times like this odd ideas come to the surface," Scott was sure that after the war "the vagaries will find their way to the wastebasket." However, he had not been trusting to fate. Ever since the founding of the League to Enforce Peace, Scott had been promoting his own ideas. In May, 1915, he had arranged for the Endowment to reprint William Ladd's 1840 classic, *An Essay on a Congress of Nations*. Ladd, organizer of the American Peace Society, had proposed a court and congress, but not enforcement machinery, as a means for attaining peace. Scott labeled Ladd's ideas the "foundation of the constructive peace movement" and "a corrective to the half-baked ideas" then in evidence.¹⁴² In June he had reminded the Society of Ladd's work, and had advised its leaders to shun sanctionism and to lay low during the war.¹⁴³ Subsequently, Scott framed the "Declaration of the Rights and Duties of Nations," and continued preaching that an enlightened public opinion is "the greatest of sanctions." He urged various bodies to adopt the "Declaration," and published other tracts advocating non-coercive institutions.¹⁴⁴

In April and May of 1916 Scott helped rewrite the American Peace Society's constitution. Then, in October shortly after Dutton took over the World's Court League, he proposed that it dedicate itself

"singly and solely" to establishing an international court "similar in nature and scope" to the U. S. Supreme Court.¹⁴⁵ This court would decide cases according to "principles of law and equity," determine its own jurisdiction, order states to appear, and, if need be, proceed *ex parte*. It would have only the power of public opinion to compel states to appear or to execute its decisions. In suggesting that the court, by analogy with the American tribunal, control its own jurisdiction and function *ex parte*, Scott far exceeded the proposal of the League to Enforce Peace which Root had labeled as violating national sovereignty.¹⁴⁶

Subsequently, at a "conference of peace workers" in New York City on October 26 and 27, Scott laid out a broader program designed to undercut sanctionism.¹⁴⁷ He prescribed a third Hague conference to which "every country belonging to the society of nations" should be invited. This conference was to agree upon periodic future conferences "as a recommending if not law-making body" with no nation having a preponderant role; a continuations committee to work between conferences to procure ratification of their conventions and declarations; and the adoption of "certain fundamental principles," such as the "Declaration of the Rights and Duties of Nations." A council of conciliation would "consider, discuss and report" on non-justiciable disputes. States would be obligated to employ arbitration, good offices, mediation, or friendly composition in settling disputes. Justiciable controversies were to be resolved by means of a "juridical union" open to all civilized nations and self-governing dominions which would bind all parties to its creation to the decisions of a permanent court. At the same time, arbitration might yet be used to resolve justiciable disputes which "through delay or mismanagement" had assumed such political importance that governments preferred arbiters of their own choice to the court. The "peace workers" approved Scott's ideas. They were adopted too by the

¹⁴⁵ Enclosure No. 1 with J. B. Scott to S. T. Dutton, October 22, 1916, Scott Papers, and J. B. Scott, "The Case of Virginia v West Virginia," *American Journal of International Law* 10, No. 3 (July, 1916): pp. 584-592. See also, J. B. Scott, "The Nature and Form of the Agreement for the Submission of Justiciable Disputes to an International Court," *Proceedings of the American Society of International Law at its Ninth Annual Meeting held at Washington, D. C., December 28-30, 1915* (Washington, D. C.: 1916), pp. 87-95.

¹⁴⁶ See above, p. 351.

¹⁴⁷ J. B. Scott, "The Organization of International Justice," *Advocate of Peace* LXXIX, No. 1 (January, 1917): pp. 10-22. *The World Court* II, No. 4 (November, 1916): pp. 211-213; *ibid.*, No. 5 (December, 1916), pp. 267-273. See also Carnegie Endowment for International Peace, Division of International Law, *The Recommendations of Habana Concerning International Organization adopted by the American Institute of International Law at Habana, January 23, 1917*. Addresses and Commentary by James Brown Scott (New York: 1917), pp. 53ff.

¹⁴² William Ladd, *An Essay on a Congress of Nations for the Maintenance of International Disputes Without Resort to Arms*. Reprinted from the original edition of 1840 with an introduction by James Brown Scott (N. Y.: Oxford University Press, 1916); *CYB*, 1916, *op. cit.*, p. 175.

¹⁴³ J. B. Scott to J. H. Ralston, June 14, 1915, *Advocate of Peace* LXXVII, No. 10 (November, 1915): pp. 239-241, reprinted in J. B. Scott, *Peace Through Justice* (N. Y.: Oxford University Press, 1917), pp. 1-7.

¹⁴⁴ *CYB*, 1917, *op. cit.*, pp. 122-125, 134-137.

World's Court League, and then by the American Peace Society, the American Institute of International Law, and, eventually, by the American Group of the Interparliamentary Union.¹⁴⁸

Dutton in October and November, 1916, was eager to "go forward without antagonizing anybody." His associate, Dr. Charles H. Levermore, drafted a new platform for the World's Court League embodying Scott's ideas, which "practically all our Peace Societies and organizations possess in common." It included the "harmless and desirable proposals of the League to Enforce Peace."¹⁴⁹ Dutton and Levermore thus hoped to provide "a connecting link and harmonious factor" for all organizations devoted to improving international relations.

Toward the end of November they proposed to merge their league with the judicial settlement society. They also hoped to collaborate with the World Peace Foundation, the American Peace Society under Kirchwey, and the Endowment.¹⁵⁰ About this time, Dutton "rescued" the New York Peace Society "from the toils of the League to Enforce Peace," and when it appeared that Wilson might have abandoned enforcement, he publicly attacked the sanctionists' platform as dangerous and unconstitutional.¹⁵¹ Early in 1917, after fierce nationalist and isolationist attacks upon Wilson's advocacy of American membership in a postwar association, Dutton proposed a fusion of the two leagues in support of a common denominator program: a court, a conciliation council, and machinery for extending international law.¹⁵² As late as March, 1917, Dutton proposed creating a holding company, called the "Association for International Justice," to advance Scott's ideas.¹⁵³ American belligerency in April, 1917, cooled the rivalry of the two international-

ist leagues. The Endowment's sympathies, however, were with Dutton's league, to which it gave modest subsidies in May of 1917 and 1918.¹⁵⁴

Even prior to Wilson's December, 1916 peace overture, Lansing had conferred with Scott on a scheme to deflect the president away from a coercive peace league. Scott, in turn, asked the secretary to appoint a new official committee under the terms of the "Hensley Clause," a provision in the 1916 Naval Appropriations Act, to prepare for the Third Hague Peace Conference. When Lansing did not respond, Scott in January sent him "a long screed" on the subject.¹⁵⁵ The diplomatic crisis of early 1917 and America's entry into the war crushed Scott's dream of revitalizing the Hague system. Nonetheless, he was resilient.

In mid-April, after again talking with Lansing, Scott suggested that the Endowment place its Division of International Law at the disposal of the Department of State for service as a bureau of international law, which he would head.¹⁵⁶ The trustees agreed, and during the next months, while Scott served as a major and judge advocate in the Office of the Provost Marshal General, he and his Endowment staff also worked for the Department of State.

In January, 1918, Lansing requested the Department of War to detail Scott to the Department of State for special research. In February he appointed Scott along with Lester H. Woolsey, the Department's current solicitor, and David Hunter Miller, an aide to House, to serve as an advisory committee on international law. This committee bridged the Department and House's Inquiry.¹⁵⁷

Among the studies Scott prepared for eventual use at the peace conference were the texts of the proceedings and protocols of the Hague peace conferences and three parallel works which reflected Scott's often stated belief in the efficacy of the American experience. Prefaced November 11, 1918, Armistice Day, they were entitled *James Madison's Notes of Debates in the Federal Convention of 1787 and their Relation to a More Perfect Society of Nations; Judicial Settlement of Controversies between States of the American Union, An Analysis of Cases Decided in the Supreme Court of the United States; and The United States of America: A Study in International Organization*.¹⁵⁸

¹⁴⁸ *Ibid.* *Advocate of Peace* LXXIX, No. 2 (February, 1917): p. 43; and U. S. Congress, 65th Cong., 2nd Sess., *Cong. Record* LVI, Pt. 12: p. 168.

¹⁴⁹ *New York Times*, November 4, 1916; C. H. Levermore to J. B. Scott, November 15, 1918, and S. T. Dutton to J. B. Scott, November 23, 1918, Scott Papers.

¹⁵⁰ See, for example, S. T. Dutton to J. B. Scott, November 29, 1916, Scott Papers.

¹⁵¹ *Ibid.* However, when the rumor about Wilson gained currency, Hamilton Holt and William H. Short of the League to Enforce Peace met with Colonel House regarding Wilson's views. They were reassured that the president supported a coercive peace league. See above, footnote 60.

¹⁵² S. T. Dutton to the Editor, January 2, 1917, *New York Times*, January 6, 1917; copy S. T. Dutton to W. H. Taft, January 10, 1917; copies H. Holt to E. Cummings, January 9 and 12, 1917, Lowell Papers. Negotiations between the two leagues continued into April, 1917, but the League to Enforce Peace would not eliminate its call for a coercive sanction. See especially copy A. L. Lowell to W. H. Short, March 24, 1917, and copy W. H. Taft to W. H. Short, April 3, 1917, LEP Papers.

¹⁵³ "Conversation with Dr. James Brown Scott on Friday, March 9, 1917," Dutton Folder, New York Peace Society Papers.

¹⁵⁴ Carbon N. M. Butler to S. T. Dutton, May 22, 1917, and carbon H. S. Haskell to S. T. Dutton, May 29, 1918, CEIP.

¹⁵⁵ Robert Lansing Diary, December 5, 13, and 23, 1916, and January 9, and 10, 1917, Lansing Papers; carbon J. B. Scott to R. Lansing, December 22, 1916, Scott Papers.

¹⁵⁶ *CYB 1918, op. cit.*, pp. 19-22. See T. Marburg to W. Wilson, May 28, 1917 attacking Scott, and W. Wilson to Marburg, May 29, 1917, Wilson Papers.

¹⁵⁷ Copy R. Lansing to The Honorable Secretary of War, January 30, 1918, Scott Papers.

¹⁵⁸ The three studies were all dated November 11, 1918,

In these studies, designed to influence the peace commissioners, Scott argued that the essential core of the agreement to create the United States was an agreement to settle interstate disputes by reference to the Supreme Court, and that the court's judgments did not require forceful execution, since "hitherto public opinion has in the long run proved sufficient to overcome the reluctance of the defeated litigant. . . ." ¹⁵⁹ From these claims, he drew the conclusion that what the "United States of the New World have done, the States of the Old World can assuredly do if only they will, for whence there is a will, there is a way."

Toward the end of October, 1918, as peace conference preparations became intense, Lansing, who still disapproved of the president's ideas, talked with Scott about alternative conceptions of a league of nations. They agreed that new measures should be simple and practical, and that it would be folly "doing more than improving the Hague Court and commissions of inquiry." ¹⁶⁰ After the armistice of November 11, Lansing, overcoming the president's suspicions concerning Scott's views, arranged for him and some of his Endowment staff to attend the peace conference. ¹⁶¹ Scott, along with Miller, who preceded him in going to Paris, was designated a technical adviser in international law. He sailed for Europe on December 4, 1918 aboard the *S. S. George Washington*, the ship that carried the president and his dissident secretary of state.

In Paris, in mid-December, Scott and Lansing again discussed "the proper bases of a League of Nations." ¹⁶² They agreed that any international agency proposed by the United States "should be based upon a court to administer international justice and to apply an international code." Scott also concurred in a new Lansing stratagem to divert the president from proposing a guaranty of the political independence and territorial integrity of league members. The secretary, wanting, as did Root and Scott, to avoid any automatic obligation by the United States to go to war, devised instead a "negative guaranty," under whose terms states would agree not to violate the territory or independence of other league members ex-

cept in order to carry out an international court order or council recommendation. Such a proposal by Lansing was ignored by Wilson. ¹⁶³ Nonetheless, in Wilson's absence, the secretary, supported by fellow peace commissioners General Tasker H. Bliss and Henry White, on December 27, 1918, asked Scott and Miller to prepare a "skeleton" peace treaty "which would indicate the various subjects to be taken up in the treaty and the difficulties connected therewith." ¹⁶⁴ Scott and Miller prepared a text, portions of which were taken from a previous draft prepared by Miller, and from Bryan's conciliation treaties, "and the whole," according to Scott, "in accordance with our own views as developed in familiar and intimate conversation both here and in the U. S. and in a whole series of frank exchanges of view on the part of Mr. L." ¹⁶⁵

The Miller-Scott text, reflecting Lansing's ideas, bound each member of the league to discuss and settle peaceably all disputes and to renounce for itself any action threatening the political or territorial integrity of other league members. ¹⁶⁶ All disputes would be submitted to arbitration, judicial settlement, or investigation, and members would engage not to commit acts of hostility pending their settlement or investigation. Moreover, any violation of this agreement would result in the *ipso facto* suspension of the diplomatic and consular relations of any violator. Each league member would pledge to withdraw its diplomatic and consular relations officers and suspend its treaties with a violator, thus bringing universal economic pressure to bear upon the state guilty of a breach of agreement. By this means Miller, Scott, and Lansing hoped to avoid a positive guaranty of the political and territorial integrity of members and an obligation to employ military sanctions.

When Wilson, on January 10, learned of the Miller-Scott document he spoke "with some asperity and wanted to know why they had undertaken such a piece of work." So heated was the exchange, with the president expressing "sweeping disapproval of members of the legal profession participating in the treaty-making," that Lansing considered resigning from office. ¹⁶⁷ This incident ended for practical purposes Scott's involvement in matters touching closely upon the drafting of the Covenant of the League of Nations.

but were respectively published in New York by Oxford University Press in 1918, 1919, and 1920.

¹⁵⁹ J. B. Scott, *Judicial Settlement of Controversies between States of The American Union* . . . , *ibid.*, pp. x and 542.

¹⁶⁰ Robert Lansing Diary, October 27, 1918, Lansing Papers.

¹⁶¹ *Ibid.*, November 20, and 25, 1918. Wilson's suspicions were fueled by a letter from Hamilton Holt to Wilson, November 11, 1918, which was counter-signed by T. Marburg, A. L. Lowell, and P. Gadsden. Wilson Papers. Taft was passionately hostile to Scott. He said in August, 1918, "Scott answers to the description of 'a snake in the grass' as well as anybody I know. . . ." Copy W. H. Taft to H. S. Houston, April 30, 1918, Taft Papers.

¹⁶² Robert Lansing Diary, December 19, 1918, Lansing Papers.

¹⁶³ R. Lansing, *The Peace Negotiations, A Personal Narrative* (Boston: Houghton Mifflin Company, 1921), pp. 48 ff.

¹⁶⁴ Robert Lansing Diary, December 27, 1918, Lansing Papers.

¹⁶⁵ J. B. Scott Diary, January 7, 1919, Scott Papers.

¹⁶⁶ *Ibid.*, January 8, 1919.

¹⁶⁷ Lansing, *op. cit.*, pp. 199 ff.; Robert Lansing Diary, January 10, 1919; Memorandum by R. Lansing, "The President's Draft of a Covenant for a League of Nations," January 11, 1919, Lansing Papers; Edward M. House Diary, January 8, 1919, House Papers; carbon T. H. Bliss to N. D. Baker, January 11, 1919, T. H. Bliss Papers, Library of Congress.

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Root, Butler, and Scott agreed about the need to educate Americans regarding world affairs and about the desirability of expanding international institutions. They rejected proposals for a coercive sanction and what they perceived to be President Wilson's ideas on postwar organization.

James Brown Scott's position was the clearest. He openly advocated new legal institutions and openly opposed a coercive league of nations. Privately, he aided Lansing in efforts to influence the president.

Contrastingly, Nicholas Murray Butler was devious, and perhaps not entirely consistent. Unlike Scott, he was a partisan critic of the administration's domestic and foreign policies. His views on the war were shifting and perhaps expedient. Publicly he called for a league of nations, sometimes referring vaguely to international enforcement. However, pseudonymously he attacked the League to Enforce Peace and then openly aided its rival, the World's Court League. During 1918 he pressed for a wartime league of the allies. When the war was coming to an end he argued for unconditional surrender and a league to maintain the Allied victory and insure order in Central Europe. Even before Wilson arrived in Europe, he openly attacked the president in a manner calculated to undermine Wilson's authority at the peace conference.

The most complex of the three Endowment leaders was Elihu Root. He shared the legalism of Scott and Butler and the partisan contempt of Wilson displayed by Butler. His internationalism, however, rested in a more sophisticated understanding than Scott's of the relationship among law, politics, and force, and his partisanship unlike Butler's was colored by a strategic rather than a tactical turn of mind. He never embraced Scott's claims about the voluntarist character of the American federal system, admitted the desirability in principle of a coercive sanction, and after April, 1917, was more circumspect in his criticism of Wilson than was Butler. Root served Wilson on a wartime mission to Russia, and deemed the League to Enforce Peace useful in educating Americans about world affairs, even to the extent of mildly encouraging its propaganda. Behind the scenes, however, he frankly criticized the League and informed the Administration of his views on international organization.

In spite of the differences in their sophistication, partisanship, and tactics Root, Butler, and Scott guided the Carnegie Endowment's client internationalist and peace societies into voluntarist channels. They maintained the appearance that the Endowment was above the fray, while in fact they used it to stiffen opposition in the United States to sanctionism and to mobilize discreetly the conservative internationalists.